

Item No.22.

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

HEARD ON: 25.01.2023

DELIVERED ON: 25.01.2023

THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

WPA NO.7620 OF 2018

**Dr. Nandini De
Vs.
State of West Bengal & Ors.**

Appearance:-

Mr. Kallol Basu,

Mr. Suman Banerjee

...

for the petitioner.

Mr. Soumya Majumdar,

Ms. Sanjukta Dutta

...

for the Jadavpur University

Mr. Anil Kr. Gupta

.....

for the UGC

JUDGMENT

(Judgment of the Court was delivered by HIRANMAY BHATTACHARYYA , J.)

1. On the prayer of Mr. Basu, leave is granted to the learned advocate on record for the petitioner to add the Principal

Secretary, Higher Education Department as a party respondent in this writ petition. Since the State has already been impleaded as a party-respondent in this writ petition and copies of the writ petition has already been served upon the State, no further copy of this writ petition need be served upon the Principal Secretary, Higher Education Department. However, the petitioner shall be obliged to serve a copy of the amended cause title of the writ petition upon the respondents or their learned Advocate.

2. Affidavit in reply to the affidavit in opposition filed by the UGC is taken on record.

3. The petitioner has prayed for a direction upon the respondent authorities to grant him promotion under Career Advancement Scheme (for short, 'CAS') in terms of the notification no. 228 Edn(U) dated March 8, 2001. The petitioner while discharging her duties in the post of Automation Officer (Selection Grade) in the scale of Rs. 12,000-420-18,300/- claims that she is entitled to the benefits of the promotion under CAS in terms of the notification dated March 8, 2001. The petitioner claims to have submitted a representation dated May 9, 2018 before the Additional Chief Secretary, Higher Education

Department, Government of West Bengal requesting the authority to consider her case for promotion under CAS.

4. The grievance of the petitioner is that no decision has been communicated by the respondent authority with regard to the prayer of the petitioner, which compelled the petitioner to approach this Court.

5. Mr. Basu, learned counsel appearing for the petitioner duly assisted by Mr. Suman Banerjee, learned advocate contended that the benefits of the CAS has been extended to the employees of the Jadavpur University (for short, 'the University') by issuing the notification dated March 8, 2001. He further submits that the case of the petitioner for grant of promotion under CAS was forwarded by the University before the appropriate authority with a recommendation but such authority has not taken a decision in that regard.

6. Mr. Majumdar, learned advocate representing the University files a copy of the recommendation sheet of the Standing Committee under the CAS, a copy of which has already been supplied to Mr. Basu, learned advocate for the petitioner in course of hearing of this writ petition. The said recommendation sheet is taken on record. Mr. Majumdar submits that the Principal Secretary, Higher Education Department i.e. the added

respondent to this writ petition is the appropriate authority who can take a decision with regard to prayer of the petitioner for promotion under CAS and the University can only act as the recommending / implementing authority.

7. Mr. Anil Kr. Gupta, learned advocate appears for the University Grants Commission (for short , 'the UGC') and submits that the UGC regulations are binding upon the University as well as upon the petitioner. He submits that any decision on the aforesaid issue is to be taken in accordance with the regulations of the UGC.

8. None appears for the State in spite of the notice. No affidavit in opposition of the State is available in the records.

9. Heard the learned advocates for the parties and perused the materials on record.

10. It appears from the notification dated March 8, 2001 that the benefits of the CAS has been extended to various State aided Universities including the Jadavpur University. The petitioner applied for extending the benefits under the said scheme and the University duly forwarded the case of the petitioner before the State with its recommendations. It appears from the recommendation sheet filed by the University in Court today that

the members of the Standing Committee including the Vice Chancellor of the University, who is the Chairman of such committee took a decision in the meeting of the Standing Committee held on January 25, 2018 and thereafter recommended the case of the petitioner for promotion under CAS. It also appears therefrom that approval under the relevant provision of the statute governing the University was accorded on February 1, 2018. However, there is nothing on record to indicate that any decision on the representation of the petitioner dated May 9, 2018 has been taken by the Additional Chief Secretary, Higher Education Department.

11. Since it has been uniformly submitted by the learned advocates for the parties that the Principal Secretary, Higher Education Department is the competent authority to take a decision with regard to the prayer of the petitioner for promotion under CAS and such authority has already been impleaded as a party-respondent on the prayer of the writ petitioner, this Court is of the considered view that the interest of justice would be subserved if a direction is passed upon the added respondent to consider the representation of the petitioner dated May 9, 2018 and to pass a reasoned order thereon.

12. Since the representation dated May 9, 2018 was addressed to the Additional Chief Secretary, Higher Education Department, the petitioner or her learned advocate is directed to submit a copy of such representation along with a covering letter addressed to the Principal Secretary, Higher Education Department together with a copy of this order on or before February 8, 2023. Since the representation as well as the recommendation are of the year 2018, in order to avoid any further delay in the matter, the Registrar of the Jadavpur University being the respondent no. 4 or the person-in-charge of the Office of the Registrar is also directed to forward a copy of the recommendation sheet of the minutes of the Standing Committee meeting held on January 25, 2018 before the Principal Secretary, Higher Education Department on or before February 8, 2023.

13. The Principal Secretary, Higher Education Department being the added respondent is directed to consider the representation of the petitioner dated May 9, 2018, if the same is re-submitted by the petitioner in terms of this order and to dispose of the same by passing a reasoned order after affording an opportunity of hearing to the petitioner or her authorised representative, the University or its authorised representative as well as any other interested person or authority and to communicate the

reasoned order to the parties immediately thereafter. The entire exercise shall be completed by the added respondent as expeditiously as possible but positively on or before March 14, 2023.

14. With these observations/directions, the writ petition is disposed of.

15. There shall be, however, no order as to costs.

16. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(HIRANMAY BHATTACHARYYA, J.)

NAREN (AR.C)