

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

Present:

The Hon'ble **Justice Kausik Chanda**

W.P.A. No.11370 of 2017

TAPAN DAS GUPTA

-VERSUS-

VISVA BHARATI UNIVERSITY AND OTHERS

For the petitioner : Mr. Debashis Banerjee, Adv.,
Mr. Rakesh Jana, Adv.

For Visva Bharati University : Mr. Soumya Majumder, Adv.,
Mr. Victor Chatterjee, Adv.,
Mr. Barnamoy Basak, Adv.

For University Grants Commission: Mr. Anil Kr. Gupta, Adv.

Hearing concluded on : 13.06.2023

Judgment on : 10.07.2023

Kausik Chanda, J.:-

The petitioner was appointed as an Assistant Librarian at Visva Bharati on October 17, 1996. The senior scale was given to him with effect from October 17, 2002. As per the Career Advancement Scheme (CAS) for Assistant Librarian on October 19, 2006, the Assistant Librarians in the universities in the senior scale who do not have Ph.D. degree or equivalent published work would be designated as Assistant Librarian in the selection grade, inter alia, on completion of five years of service in senior scale. However, the requirement of five years could be relaxed if the total service exceeded eleven years, and also on the further condition that he or she participated in two refresher courses/summer institutes, each of not less than four weeks duration or engaged in other appropriate continuing education programme of comparable quality after placement in the senior scale.

2. After his designation as Assistant Librarian in senior scale, the petitioner completed his first refresher course on August 12, 2008, followed by his second refresher course completed on August 9, 2011. The petitioner was not given the selection grade by the university, however, after his retirement, the university ultimately decided to grant him the selection grade with retrospective effect from on August 19, 2011. The university in its resolution dated November 11, 2013 observed as follows :-

- “1) Sri Dasgupta was placed to Assistant Librarian on 17-10-1996
- 2) Placed Assistant Librarian (Sr. Scale) on 17-10-2002.
- 3) Sri Dasgupta eligible date for placement in Assistant Librarian (Selection Grade) was 17-10-2007.
- 4) Two Refresher courses/Summer institutes each of 4 weeks duration is required after placement in the senior scale.
- 5) But he did not participate such course within five years or 30-06-2010 (UGC's extended date).
- 6) As per UGC Letter No. F.2-16/2002 dated 08/01/2008 to consider the issue for exemption from attending Refresher Courses for teachers/Assistant Librarian who are superannuating within next three years but Sri Dasgupta was retired 31/01/2012 i.e. beyond of three years. Hence, as per CAS Committee advised a letter was sent to UGC on 11/12/2011 for clarification in this regard but till date university has not received any reply from UGC.
- 7) He was participated two Refresher Courses on 23-07-2008 to 12-08-2008 and 29-07-2011 to 19-08-2011 beyond the UGC's extended date.
- 8) He retired on 31-01-2012 on superannuation.
- 9) Recently, UGC has been extended the date of participation in orientation/Refresher Courses upto 31-12-2013 vide UGC letter No. 1.2/2009 (EC/PS) Pt. VIII dated 7-12-2012.
- 10) Accordingly, Sri Dasgupta has fulfilled the criteria for placement in Assistant Librarian (Selection Grade) as per UGC guidelines.

11) As per UGC's guidelines as Assistant Librarian (Sr. Scale) may be placed to Assistant Librarian (Selection Grade) after appear of Selection Committee.

12) Sri Dasgupta retired on superannuation dated 31-01-2012 it is hardly possible to face Selection Committee for placement to Assistant Librarian (Selection Grade)."

3. After noting the aforesaid dates, the university decided to place the petitioner from Assistant Librarian (Sr. Scale) to Assistant Librarian (Selection Grade), as there was no scope to convene a fresh selection committee as a very special case, with effect from the date when he completed his second refresher course.

4. The aforesaid resolution indicates that since the petitioner has completed his two refresher courses within the extended dates specified in the University Grants Commission (in short, the UGC) circular dated December 7, 2012, the university thought it fit and proper to give him the benefit of the refresher courses even after his retirement.

5. The said decision of the university to give the selection grade to the petitioner with effect from August 19, 2011 has been challenged by the petitioner. The petitioner contends that the university should have given him the selection grade with effect from August 12, 2008, the date when he had completed his first refresher course.

6. Although initially, in the writ petition, the petitioner contended that he should have been given the selection grade with effect from October 17,

2007, upon completion of 11 years of service in senior scale, at the time of argument, it was, however, submitted by the learned advocate for the petitioner that the petitioner claimed the benefit of the selection grade from the date of completion of his first refresher course on August 12, 2008.

7. It has been submitted by the learned advocate appearing for the petitioner that as per the Career Advancement Scheme issued by the UGC, though the petitioner was required to complete two refresher courses, subsequently, the UGC issued another circular dated January 8, 2008, exempting such requirement. By referring to the said circular dated January 8, 2008, it has been submitted by the learned advocate for the petitioner that since the petitioner was actually given the senior scale in 2007, he could enroll in the refresher course only thereafter. The petitioner completed his first refresher course on August 12, 2008 and he was obliged to wait for at least one year before undertaking the second refresher course. Therefore, the petitioner could not have taken the second refresher course before August 12, 2009. The petitioner was due to retire on January 31, 2012. It was not necessary for him to complete the second refresher course since the circular dated January 8, 2008, exempted the requirement of refresher course within next three years starting from the earliest available date to commence the second refresher course, i.e., August 12, 2009. The petitioner submits that though he completed his second refresher course on August 19, 2011, the same was not necessary in view of exemption granted by the circular dated January 8, 2008. Therefore, the petitioner is

entitled to receive the benefit of selection grade from completion of his first refresher course, i.e., August 12, 2008.

8. Mr. Soumya Majumder, learned advocate appearing for the university on the other hand has drawn attention of this Court to a circular dated February 11, 2008, to suggest that the UGC has clarified that to receive selection grade, completion of two refresher courses was mandatory.

9. Mr. Majumder submits that on January 8, 2008, provides for a one-time exemption for the Assistant Librarians whose retirement was due within three years from the date of issuance of the circular, i.e., January 8, 2008. Since the petitioner retired on January 31, 2012, the said circular did not apply to him.

10. It is the submission of Mr. Majumder that the university, sympathetically, granted him the benefit of the selection grade even after his retirement without asking the petitioner to appear before a selection committee.

11. I am of the view that there is no scope for any further relief to the writ petitioner. The circular dated January 8, 2008, is clear and unambiguous. The UGC by the said circular sought to exempt the Librarians from attending refresher courses if they were due to superannuate “within next three years.” The starting point of “three years” should be the date of the circular, i.e., January 8, 2008. There is no reason to accept the contention of the petitioner that the “three years” should be calculated from the date when a Librarian is required to start his refresher

course. The said interpretation would allow the circular to operate ad-infinitum. Mr. Majumder has rightly submitted that the circular was intended to provide a one time benefit.

12. The petitioner had the opportunity to participate in the second refresher course starting from August 12, 2009, and completed it by August 12, 2010. It should be presumed that the petitioner was aware of the circular dated January 8, 2008, and also aware of his impending retirement on January 31, 2012. Therefore, I am of the view that the petitioner cannot claim the benefit of the circular dated January 8, 2008, since he superannuated more than three years after the date of issuance of the said circular. The petitioner cannot claim to get the benefit of Selection Grade solely on the basis of completing 11 years of service in the Senior Scale without fulfilling the requirement of completion of two refresher courses. The university, as a very special case, even after his retirement, has decided to give him the benefit of selection grade from the date when he completed his second refresher course, without asking him to appear before the selection committee. No further relief can be granted to the petitioner. Accordingly, I find no merit in this writ petition.

13. W.P.A. No.11370 of 2017 is accordingly dismissed.

14. Urgent certified website copy of this judgment, if applied for, be supplied to the parties subject to compliance with all the requisite formalities.

(Kausik Chanda, J.)