

24.03.2023

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**WPA 15245 of 2022**

Ananda Mohan Das  
Vs.  
Union of India & Ors.

Ms. Anita Kaunda  
... For the petitioner.

Mr. Ayanabha Raha  
... For respondent no. 1.

Mr. Anil Kumar Gupta  
... For UGC.

It appears that way back in the year 2001 the petitioner approached this Court by filing writ petition which was disposed of on March 6, 2002 by a Coordinate Bench of this Court with the following order:-

*“The case of the petitioner be considered for recruitment along with other candidates, if there is any vacancy, even without being sponsored by the Employment Exchange and by relaxing his age if necessary, in view of the fact that the petitioner had been working for sometime in the Department. All things being equal, the petitioner shall be given preference. NO vacancy, against which the petitioner could be absorbed, shall be filled up hereafter, without considering the petitioner’s case.*

*This will not prevent the respondents from considering the petitioner’s representation contained in Annexure ‘P-6’ in accordance with*

*law provided a copy of Annexure 'P-6' is furnished to the University within a period of four weeks from date.*

*This writ petition is disposed of."*

It is the case of the petitioner that despite such order, the University Grants Commission did not appoint the petitioner to the relevant post.

It has been submitted by the learned advocate for the petitioner that though some other candidates standing on the same footing with the petitioner have been appointed, the petitioner has been denied of his right to be appointed.

It has been further submitted by the learned advocate for the petitioner that the petitioner made multiple applications under the Right to Information Act, 2005, which were answered giving contradictory replies.

The learned advocate for the petitioner submits that though there was a delay in filing the writ petition, the order dated March 06, 2002 is still in force and therefore, the petitioner should be appointed in terms of the said order.

Mr. Gupta, learned advocate appearing on behalf of University Grants Commission submits that the petitioner was merely a contractual employee. At no point of time there was employer-employee relationship

between the petitioner and the University Grants Commission.

The relevant part of the affidavit of the Commission is quoted below: -

“h) The UGC, Eastern Regional Office during initial years of setting up of the office at Kolkata sought service supports and help from local Universities, academic institutions and local service agencies. The Petitioner was deputed by a local service agency (Trident Security and Allied Services) from 4<sup>th</sup> June, 1998 to 31<sup>st</sup> July 1998 (58 days) to clear some back log works in the office with the instructions to pay him directly as the agency did not claim any service charge for such ad-hoc and short period service. According, the payment was made to the Petitioner on behalf of the agency through office vouchers (sub-Voucher for Petty Contingent Expenditure). After termination of his deputation on 31<sup>st</sup> July, 1998 the office neither appointed the Petitioner nor paid him any salary / wage / remuneration.”

Furthermore, the writ petitioner in the year 2005 again approached this Court with a similar prayer, that was dismissed for default. The petitioner filed a restoration application which was also dismissed for default. Therefore, the present writ petition is not maintainable.

I am of the view that this writ petition cannot be entertained because of the belated approach of the

petitioner. His previous writ petition [W.P. 7191 (w) of 2005] was dismissed for default on August 25, 2009. Thereafter, he filed a restoration application, CAN 2205 of 2010, which was also dismissed for default on September 17, 2010. The petitioner did not take any immediate step. He has filed the present writ petition only in the year 2022 after a lapse of about twelve years.

That apart, I find that University Grants Commission responded to a letter of the petitioner on July 15, 2020, *inter alia*, with the following observations: -

*“I am directed to refer to your letter dated 13.3.2020 on the subject cited above and to inform that it is not possible to consider your request until to follow recruitment procedure. You are again informed that you should apply for the post of LDC/Typist as and when the recruitment notification published. You may keep watch on UGC website and whenever there is vacancy notified, you may apply for the same and your candidature will be considered along with other applicants on the basis of merit.”*

The petitioner could not demonstrate before this Court that University Grants Commission has carried out any regular recruitment process for the relevant post till date.

I am of the view that the said communication is in tune with the order dated March 06, 2002.

In that view of the matter, no interference is called for.

Accordingly, **WPA 15245 of 2022** is disposed of.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)