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Ct-08

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MAT 1489 of 2023

with

I.A No. CAN 1 of 2023

Prof. Sudip Kumar Das

Vs.

The University of Calcutta & Ors.

Dr. Chapales Bandypadhyay

Ms. Gargy Basu

Ms. Anandamoyee Dutta

... For the Appellant

Mr. Nilotpal Chatterjee

Mr. Sourabh Sengupta

... For the Calcutta University

1. By consent of the parties the appeal is treated as on day's list and is taken up along with the application and both are disposed of by a common order.

2. We have heard the learned counsel appearing for the parties.

3. The appellant/petitioner was a Reader at Calcutta University. He applied for selection as a Professor under the Career Advancement Scheme of the University Grants Commission and a Selection Committee was formed. He was not given the said promotion on the allegations of plagiarism. Ultimately, the Expert Committee made a recommendation on 20th November, 2014 for his promotion to the post of Professor.

4. The initial Selection Committee by its resolution dated 3rd August, 2010 deemed the

petitioner suitable for promotion as a Professor with effect from 23rd May, 2008. The recommendation of the first Selection Committee was modified by the second Selection Committee, which ultimately resulted in about a six-year delay in the petitioner's promotion.

5. Learned Single Judge on consideration of the affidavit filed by the University found that the one-member committee was never supplied report to the petitioner and the allegation of plagiarism was not established against the petitioner. Moreover, the said report could not have been relied upon by the University against the petitioner without giving any opportunity to explain. Learned Single Judge has come to a finding that the allegation of plagiarism against the petitioner in respect of the report of the second Selection Committee was unjustified as the documents in support of the plagiarism was never supplied to the writ petitioner and the writ petitioner was not given any opportunity of hearing in dealing with the allegation of plagiarism levelled against him. On such conspectus of fact, learned Single Judge was of the view that the petitioner shall be treated to be promoted to the position of Professor under the Career Advancement Scheme of the University

Grants Commission Regulations 2000 from 23rd May, 2008.

6. In absence of any Cross-Appeal, we are of the view that by reason of the order of the learned Single Judge recognizing that the petitioner should be treated to be promoted from 23rd May, 2008 the petitioner would be entitled to arrear benefits which, however, has not been allowed by the learned Single Judge without giving any reason for denial of such relief. Once the learned Single Judge has arrived at a finding that the petitioner was unfairly dealt with and was denied promotion for about six years, which in effect amounts to a punishment, it is all the more reason that the petitioner should receive the arrear benefits pursuant to his promotion to the post of Professor on and from 23rd May, 2008.

7. Under such circumstances, the order impugned is modified to the aforesaid extent.

8. In view of the above, the appeal being MAT 1489 of 2023 stands disposed of.

9. In view of disposal of the appeal nothing remains to be decided in the application for Stay being CAN 1 of 2023 and the same is accordingly disposed of.

10. However, there shall be no order as to costs.

11. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Prasenjit Biswas, J.)

(Soumen Sen, J.)

