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WPA 16622 of 2016
with
CAN 1 of 2023

Sujit Roy Chowdhury & Ors.
Vs.
West Bengal University of Animal & Fishery Sciences & Ors.

Mr. Swapan Kumar Nandi
Mr. Sizan Nandi
Mr. Debjyoti Ghosh

... For the Petitioners.

Re: CAN 1 of 2023

This is an application for restoration.

Having considered the averments made in paragraph 3 of the restoration application, I am of the view that the petitioners have sufficiently explained the reason for their non-appearance before this Court of January 04, 2023.

Accordingly, the order dated of January 04, 2023 is recalled and the writ petition is restored to its original file and number.

CAN 1 of 2023 is allowed.

WPA 16622 of 2016

The petitioners are employed at various Krishi Vigyan Kendras (referred to as KVK) under the West Bengal University of Animal and Fishery Sciences, Kolkata.

The primary prayer of the petitioners, as elucidated by the learned advocate representing them in this writ petition, is the disbursement of their retiral entitlements, including pensionary benefits.

The petitioners assert that they should be recognised as regular employees of the university and, accordingly, should receive the associated benefits.

Mr. Swapan Nandi, the learned advocate representing the petitioners, contends that the university has appointed these petitioners and accorded them the advantages of career advancement schemes. The petitioners have been treated as regular employees by the university, and consequently, the university is obligated to provide their retiral benefits, including pensions. Mr. Nandi cites a Memorandum of Understanding between the Indian Council of Agricultural Research (ICAR) and the University, which governs the terms and conditions of KVK employees under the university.

According to Mr. Nandi, as per clause 6 of the aforementioned Memorandum of Understanding, KVK staff should be treated on par with university employees concerning privileges, amenities, and facilities provided to other university staff. Hence, the petitioners should be entitled to benefits similar to those of regular university employees.

An adjournment has been prayed on behalf of respondent nos. 5 and 6.

However, according to the affidavit submitted by these respondents, ICAR grants aid to the university for the operation of KVKs, and the university appoints KVK employees, exercising administrative control over them.

Respondent no. 5 maintains that as KVK staff is essentially university staff, the matter of provident fund for KVK employees is to be determined by the university, with reference to clause 8 of the Memorandum of Understanding. It is stated that the Council will not bear the costs of pension contributions, leave salary, or any other retirement benefits incurred or committed by the grant-in-aid in place of the Contributory Provident Fund/General Provident Fund.

The university's affidavit asserts that KVK is a project funded by ICAR and assigned to different Agricultural Universities, and the ICAR sanctions KVK posts, not the State Government. The appointment letters to the petitioners clearly state that they are temporary employees holding positions under the KVKs, with their tenure extending until its sanction is granted by the Indian Council of Agricultural Research.

Furthermore, the university contends that KVK staff has been receiving pay and allowances in accordance with the Central Government pattern as implemented by the ICAR, including dearness allowances, while university employees follow the State Government pattern for dearness allowances.

Importantly, the affidavit points out that the Department of Agricultural Research and Development, Government of West Bengal, introduced a contributory Provident Fund (CPF) for KVK staff, with the ICAR covering the employer's share, while the employees' share is deducted from their monthly salaries.

The university continues to manage the contributory Provident Fund account. Additionally, the university states that death-cum-retiral dues are applicable to university employees, but gratuity and pension are not applicable to KVK staff, and presently, no pension scheme exists for KVK employees.

It is evident that the KVKs under the university operate based on the Memorandum of Understanding between the ICAR and the University, with no role attributed to the State Government. Furthermore, the Memorandum of Understanding specifies that ICAR shall not assume any financial responsibility for pension, leave salary, or other retirement benefits, which are within the purview of the university and do not extend to CPF or GPF schemes.

There is no indication in any document that the university has ever regarded KVK employees as regular employees equivalent to its own regular staff.

With respect to the principal demand of the petitioners for the release of retiral benefits, including pension, it should be noted that the university has never guaranteed such benefits to KVK employees. These employees are eligible for CPF schemes in which ICAR shares the contribution equally. Therefore, the petitioners cannot lay claim to pensionary benefits from the State Government since the State Government was not a party to the Memorandum of Understanding governing KVK operations.

In light of the above, it is evident that as of the present date, no enforceable entitlement exists in favor of the petitioners regarding pensionary benefits or any additional benefits not covered by the Memorandum of Understanding or the terms of employment for KVK staff.

During the proceedings, however, the learned advocate representing the petitioners provided a letter dated September 23, 1999, issued by the Principal Secretary, Government of West Bengal, Department of Animal Resources Development to the Vice-Chancellor of the University. The letter indicates the university's decision to assume ownership, management, and operation of the Ramsai Farm, Jalpaiguri, at the earliest opportunity.

A copy of this Government Order dated September 23, 2019, shall be retained with the records.

It should be clarified that if, as a matter of principle, the university takes over any KVK, the employees of that KVK will be entitled to corresponding benefits. This order shall not impede any such action undertaken by the State or the university.

Similarly, if the university and the State elect to confer additional benefits upon KVK staff, they are at liberty to do so.

Consequently, this writ petition is dismissed without issuing any specific orders but with the clarification that the State and the university, acting jointly, may modify terms and conditions or provide additional benefits to KVK employees as they see fit.

Accordingly, **WPA 16622 of 2016** is disposed of.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)