

12.10.2023
SL No.30
Court No.8
(gc)

**MAT 1811 of 2023
CAN 1 of 2023**

**Asish Kumar Das
Vs.
The University of Calcutta & Ors.**

Mr. Kishnendu Bera,
Ms. Debolina Chakraborty,
...for the Appellant.
Mr. Nilotpal Chatterjee,
Mr. Sourabh Sengupta,
...for the Calcutta University.

1. The appellant was initially promoted as a Senior Assistant on 1st January, 1998 and thereafter he was promoted as Junior Superintendent on 19th August, 2010. After completion of service for five years in the said post, the appellant became eligible for promotion to the next post of Senior Superintendent. These facts are not in dispute. It is also not in dispute that by reason of failure to prepare the annual performance report of the employee, the representation of the petitioner for promotion to the post of Senior Superintendent could not be considered during the period of his employment. In fact, the Establishment Committee of the University in its meeting dated 15th February, 2016 resolved to consider the

promotion of existing incumbents for the posts, including the post of Senior Superintendent on the basis of the annual performance report of the relevant employee.

2. If the annual performance report of the appellant were considered before his retirement, he might have been considered for the post of Senior Superintendent which will attract higher scale of pay and financial benefits.
3. Moreover, it appears that before his retirement he made a representation ventilating his grievance that he should have been considered for the post of Senior Superintendent and he should be given the said benefit as the annual performance report was not prepared in terms of the resolution of the Committee of the University dated 15th February, 2016.
4. In view of the admitted position that the petitioner was no way responsible for not preparation of the A.C.R. and the fact that a promotion can be given even after retirement of an employee as observed in **Major General H.M. Singh, VSM Vs. Union of India & Anr.** reported at **(2014) 3 SCC 670**, we set aside the order passed

by the learned Single Judge and direct the Registrar, Calcutta University to prepare the annual performance report of the appellant and on the basis of the annual performance report to consider whether the appellant should be eligible for the post of Senior Superintendent. In the event the University authority finds that he were suitable at the relevant point of time, notional benefits shall be extended to him till retirement.

5. The entire exercise shall be completed within three months from the date of communication of this order by either of the parties.
6. The aforesaid direction passed in view of the fact that prior to his retirement, the appellant had made a representation and the University was required and obliged to consider the said representation on the basis of the minutes of the meeting dated 15th February, 2016.
7. Accordingly, the appeal and the application stand disposed of.
8. However, there shall be no order as to costs.

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

(Uday Kumar, J.)

(Soumen Sen, J.)