

17.08.2023

Sl. 24-25

Ct.No. 238

Amalranjan

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 27808 of 2022

With

WPA 20518 of 2021

Soumyendra Sen

Vs.

Union of India and ors.

Mr. Pratik Dhar, Sr. Adv.

Mr. Samir Halder.....for the petitioner

Mr. Sukumar Bhattacharyya

Mr. Prodyut Saha.....for the respondent nos.1-4

Mr. Pranit Bag

Mr. Anuj Mishra.....for the Visva Bharati

Mr. Jayanta Samanta

Ms. Ashmita Ghosh.....for the State

These two writ petitions are taken up for hearing together since they originate from the same incident.

It appears that a disciplinary proceeding was initiated against the petitioner with a singular Article of charge for dereliction of duties. On an earlier occasion, the petitioner in WPA 20518 of 2021, prayed for supply of certain documents relied upon by the disciplinary authority. This is not in dispute that most of their documents have been supplied by the petitioner during the pendency of these two writ petitions.

It further appears that during the pendency of these two writ petitions, the enquiry took place and the enquiry report was placed before the executive council of the university.

The executive council in its meeting held on 31st May, 2022 discussed the enquiry report in details and resolved that either the board of enquiry would be requested to submit a conclusive report as to whether the charges had been established or a fresh enquiry committee would be constituted by the Vice-Chancellor, in order to get a conclusive/recommendation on the matter.

Thereafter, the board of enquiry submitted two addenda to the enquiry report before the executive council and the executive council in its meeting held on September 21, 2022 proposed to impose a major penalty of reduction to a lower stage in the time scale of pay by one stage for a period of three years with cumulative effect upon the petitioner, subject to the leave of this court.

In my view, the executive council before proposing to impose any penalty upon the petitioner ought to have provided him with the enquiry report and the addenda thereof. Without supplying the copy of the enquiry reports, the executive council could not have resolved to

propose and impose a major penalty upon the petitioner.

In that view of the matter, the resolution taken by the executive council dated September 21, 2022 as appearing at annexure R-2 of the affidavit-in-opposition filed on behalf of the respondent nos. 2-4 is set aside.

Accordingly, these two writ petitions are disposed of with the following directions:

- a. The University shall provide the petitioner with a copy of the enquiry report and addenda thereof within a period of 2 weeks from the date of communication of this order.
- b. The petitioner will be entitled to give his response within a period of 3 weeks thereof.
- c. Only after receiving the response from the petitioner, the executive council will take the disciplinary proceeding to its logical conclusion in accordance with law.
- d. The Proceeding is to be concluded within a period of four months from the date of communication of this order.
- e. The petitioner's representations dated 17th November, 2022 and 25th July, 2023 as disclosed in the writ petition and in

the supplementary affidavit filed by the petitioner concerning the prayer for according the benefit of Modified Assured Career Progression (MACP) Scheme shall be considered by the University in accordance with law within a period of one month from the date of communication of this order.

Let the pleadings filed by the respective parties be kept with the records.

Accordingly, both the writ petitions, WPA 27808 of 2022 and WPA 20518 of 2021 are disposed of.

(Kausik Chanda,J.)