

10.5.2023

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WPA 27549 of 2015

Prof. Sudip Kumar Das
Vs.
The University of Calcutta & Ors.

Mr. Chapales Bandyopadhyay
Ms. Gargy Basu
Ms. Anandamayee Dutta
... For the petitioner.

Mr. Nilotpal Chatterjee
Mr. Sourabh Sengupta
... For the University.

The 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. The Committee in its meeting on August 3, 2010, deemed the petitioner fit for promotion and recommended the promotion from Reader to Professor, effective from May 23, 2008, under the Career Advancement Scheme in the Department of Chemical Engineering.

The petitioner asserts that, while he was cognizant of the outcome of the selection process, he never received official communication regarding his promotion under the Career Advancement Scheme. Consequently, the petitioner was compelled to

approach this Court by filing a writ petition to enforce the recommendation of the selection committee.

While the writ petition was pending, the University disclosed that the petitioner's promotion had not been implemented due to an ongoing proceeding against him involving allegations of plagiarism.

It appears that, while the writ petition was pending, another selection committee was constituted to assess the petitioner's suitability for promotion under the Career Advancement Scheme. The newly formed committee convened on November 20, 2014, and resolved to promote the petitioner, effective from that date.

The writ petition was disposed of on December 03, 2014, with the liberty granted to the petitioner to accept the appointment and service benefits offered without prejudice to his rights and contentions. It was clarified that the petitioner would be free to initiate suitable proceedings in accordance with the law before the appropriate forum, challenging the University's decision to appoint him as a Professor, effective from November 30, 2014, rather than May 23, 2008, as recommended by the initial selection committee.

The petitioner contends that he was not made aware of any allegations against him. He was not

issued a show cause notice to explain his position or address the allegations of plagiarism levelled against him. The decision of the selection committee was made without the petitioner's knowledge, and the principle of natural justice was not adhered to in delaying the petitioner's promotion. The petitioner refutes the allegations of plagiarism and argues that they are unfounded. The petitioner contends that he ought to have been promoted from May 23, 2008 onwards.

The University, on the other hand, asserts that the petitioner was aware of the allegations levelled against him. The petitioner was requested to provide a response to the allegations. Referring to the petitioner's letter dated July 15, 2013, the University contends that the petitioner was aware of the allegations against him. Moreover, the petitioner submitted to the jurisdiction of the selection committee and unequivocally conveyed to the University that he was willing to accept the punishment if any truth was discovered in the allegations made against him. The University argues that, having accepted the jurisdiction of the selection committee, the petitioner should not be permitted to accept the recommendation in part and challenge the remainder.

It has been additionally argued that the decision was made by the expert committee, and as a result, this Court, while exercising judicial review, should refrain from acting as an appellate authority over the decision of the selection committee.

In order to appreciate the disputes, it is essential to reproduce the recommendation made by the selection committee on November 20, 2014.

“On the basis of the above documents and the discussions with the candidate the committee has come up with the following conclusions.

- i) There is sufficient similarity between the publication in Chemical Engineering Journal, 119 (2006), 153-160 and data in the M. tech thesis of S. P. Mukhopadhyay. The student S. P. Mukhopadhyay was registered for his M. tech thesis with Prof. M. N. Biswas of IIT KGP. The publication had information from the thesis. However the student’s contribution and work were not acknowledged in the paper. Dr. S. K. Das expressed ignorance of the existence of the thesis. He mentioned that the data was provided by Prof. Biswas. Prof. Biswas was Dr. Das’s Ph.d supervisor.*
- ii) The article by Bar and Dr. Das in Indian Chemical Engineer volume 48 no.3, 196-200, 2006 was withdrawn by the Journal. This was in response to a complaint by D. Doraiswamy that there is “Visible similarity in the theme of the article and many*

paragraphs are copied word by word.” The candidate accepted that there were similarities but claimed ignorance. He mentioned that he had not seen the article which was submitted to the journal. Dr. Bar was an M.Phil student from Annamalai University.

- iii) *The committee also noted that Dr. Das has contributed academically significantly in the past five years keeping this in mind the committee recommends Dr. Das for the position of Professor, with effect from 20/11/2014.*

On the basis of the above, the Committee feels Dr. Das has not been careful in giving due credit to earlier works done. This is a question of professional ethics even though Dr. Das professes ignorance. The committee emphasizes the need for him to be extremely careful in future.”

The promotion of the petitioner to the post of Professor was subject to the provisions of the UGC Regulations on Minimum Qualifications for Appointment and Career Advancement of Lecturers, Readers and Professors in the Universities and Colleges, dated April 04, 2000 (hereinafter referred to as the "UGC Regulations 2000"). This fact is evident from clause 1.3 of the University Grants Commission Regulations 2010.

In accordance with the extant State Government notifications, as disclosed in the note of the Registrar appearing on page 24 of the affidavit-in-opposition filed by the University, the petitioner's promotion was due from May 23, 2008.

The undisputed fact is that the initial selection committee, by its resolution dated August 3, 2010, deemed the petitioner suitable for promotion as a Professor, with effect from May 23, 2008.

The postponement of this date by the resolution of the subsequent selection committee effectively imposed a major penalty on the petitioner.

The recommendation made by 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.

I do not accept the petitioner's assertion that he was not aware of the allegations made against him. It is evident that the University provided him with an opportunity to clarify his position.

However, it is crucial to note that delaying a promotion is a significant form of punishment, and it cannot be imposed without conducting a comprehensive enquiry giving adequate opportunity of hearing to the petitioner. When the first selection committee deemed the petitioner suitable for promotion

from May 23, 2008, any postponement of promotion due to substantial allegations of plagiarism should have been investigated through a full-fledged proceeding in due compliance with the principle of natural justice.

It appears that allegation of plagiarism was enquired into by forming a one-member committee. The copy of the report was never supplied to the petitioner.

It was quintessential that the petitioner should be provided with the copy of the enquiry report to deal with the allegations levelled against him. It is also apparent from the resolution of the second selection committee that the documents as considered by the said committee in support of the case of plagiarism made out against the petitioner were not supplied to the petitioner. The committee also did not hear the petitioner in dealing with the allegations of plagiarism levelled against him.

Therefore, the recommendation of the selection committee, which deferred the promotion of the petitioner for about six years, resulting in the imposition of a major penalty upon him, cannot be sustained.

In light of the foregoing, this Court cannot uphold the recommendation of the selection committee dated November 20, 2014, to grant the petitioner promotion

with effect from November 20, 2014, and accordingly, the same is set aside.

It is noteworthy that the petitioner retired as a Professor from the University in October 2022.

In the given circumstances, 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 May 23, 2008. However, there shall be no arrear benefits payable pursuant to this order. Accordingly, the petitioner shall only be entitled to receive revised pension treating him to be a Professor with effect from May 23, 2008.

With the aforesaid directions, **WPA 27549 of 2015** 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.)