

November 17, 2023
Sl. No. 16
Court No.2
s.biswas

**In the Calcutta High Court
Circuit Bench at Jalpaiguri
Appellate Side**

WPA 2541 of 2023

Dr. Mossaraf Hossain

vs.

The State of West Bengal and others

Mr. Hillol Saha Podder

... for the petitioner

Mr. Subir Kumar Saha, AGP

Mr. Sumit Kumar

... for the State respondents

The service is complete. But none appears on behalf of the University of North Bengal.

The matter is taken up for hearing.

The petitioner was appointed as the Assistant Professor-Assistant Director in the Human Resource Development Centre (HRDC), University of the North Bengal, vide appointment letter dated August 17, 2020 issued by the Registrar. Amongst the other terms and conditions of service, Clause 12 of the said appointment letter is relevant for the purpose of adjudication of the issue. The said clause is quoted below:

“**12.** Your are designated to participate in teaching and research activities in the **Department of Chemistry** on a par with other faculties of the department. You are also included in all Statutory Bodies as per norms of the

University in terms of Guidelines for Human Resource Development Centre 2019 (Annexure 13, Clause no.3(a)IV &VI).”

The records reveal that the petitioner was designated to participate in teaching and research activities in the Department of Chemistry on a par with other faculties of the department. The said opportunity was given to the petitioner on the basis of the guidelines of the University Grants Commission relating to Human Resource Development Centres, 2019. Accordingly, the petitioner approached the Head of the Department of Chemistry for being allowed to participate in teaching and research activities in the Department of Chemistry. Similar request was made to the Director of the UGC-HRDC, University of North Bengal.

On a query raised by the Professor and Head of the Department of Chemistry, University of North Bengal, the Vice-Chancellor, University of North Bengal clarified the status of the petitioner as follows:

“With reference to your letter dated 15.10.2020 addressing the Hon’ble Vice-Chancellor and asking the clarification as cited in

the subject. Kindly find pointwise clarification as under:

1. Dr. M. Hossain shall be included in the Departmental Committee as and when matters relating to his teaching, research and extension services in the Department of Chemistry will arise. Dr. M. Hossain will act as an invited member in the Departmental Committee having freedom to place his opinion on the matter of teaching, research and extension carried by/provided to him by the Department.
2. Dr. M. Hossain's name will appear in the Faculty Board as an Adjunct Faculty in the Department of Chemistry stating his position as Assistant Professor-Assistant Director, HRDC, NBU.
3. Dr. M. Hossain's academic details can be displayed in the University website as an Adjunct Faculty in the profile of the Department of Chemistry, NBU."

Thus, the Vice-Chancellor, University of North Bengal clarified that the petitioner should be included in the Departmental Committee as and when matters relating to teaching, research and extension services in the Department of

Chemistry arose. The petitioner would act as an invited member in the Department Committee, having freedom to express his opinion on the matters relating to teaching, research and extension carried by and provided to him by the department. The name of the petitioner would appear in the Faculty Board as an Adjunct Faculty in the Department of Chemistry, stating his position as Assistant Professor-Assistant Director, HRDC, NBU and the petitioner's academic details could be displayed in the university website as an Adjunct Faculty in the profile of the Department of Chemistry, North Bengal University.

According to the Vice-Chancellor, such arrangement was being made on the stipulation of the University Grants Commission and as per the Memorandum of Understanding entered into between the University of North Bengal and UGC. The petitioner would be a faculty in his mother department, i.e. HRDC, NBU and an Adjunct Faculty of the Department of Chemistry, NBU.

Suddenly, after a few months, the Registrar communicated to the Head of the Department of Chemistry, University of North Bengal by a letter dated June 29, 2021 that on the direction of the Vice-Chancellor, the earlier clarification (quoted

hereinabove) had been withdrawn and Clause 12 of the appointment letter stood deleted. A copy of the said intimation of the Registrar was also forwarded to the petitioner.

Aggrieved, the petitioner has approached this court.

It appears that the decision was taken by the authority by withdrawing certain privileges/designations/recognitions which the petitioner was earlier allotted as an Adjunct Faculty of the Department of Chemistry, without any opportunity of hearing to the petitioner and without assigning any reasons. Such position/status had been given to the petitioner on the basis of the Memorandum of Understanding entered into between the North Bengal University and the University Grants Commission. Such fact is available from the clarification issued by the Vice-Chancellor to the Head, Department of Chemistry.

This court is of the view that when the decision of like nature was taken by the Vice-Chancellor, the petitioner ought to have been heard and informed about the reasons. Secondly, whether such decision could be taken in contradiction to the memorandum of

understanding which the university had entered into with the UGC, is also a relevant issue.

Clause 3(a)IV of the memorandum of understanding (Annexure 13) of the guidelines of the University Grants Commission provides that the faculty of the HRDC should be allowed to participate in teaching, research and extension at par with other faculty members.

Thus, such status, privilege and position which had been given to the petitioner by the Vice-Chancellor, based on the memorandum of understanding as the records reveal, had been taken away. The reason why the said status was withdrawn on the direction of the Vice-Chancellor, is not available.

Under such circumstances, this court is of the view that the petitioner should be provided with a detailed reason as to why the university or the Vice-Chancellor had taken such steps behind the back of the petitioner without either informing the petitioner or hearing the petitioner or giving an opportunity to the petitioner. It appears that the petitioner had approached the authorities time and again for certain clarifications, but the same has not resulted in any fruitful steps.

Further, it appears from the specific averments in paragraph 21 of the writ petition that the Executive Council in 73rd meeting dated May 19, 2023 had taken a decision to explore the possibilities of re-insertion of Clause 12 in the appointment letter of the petitioner.

Accordingly, this court is of the view that the competent authority of the University of North Bengal shall take an immediate decision with regard to the re-insertion of Clause 12 in the appointment letter of the petitioner and to extend the benefits on the basis of the clarification issued by the Vice-Chancellor earlier, within a period of two months from the date of communication of this order. If it is found that the re-insertion of the clause is not possible and there are specific and genuine reasons for deletion of the said clause, in that event the reason shall be mentioned in an order to be served upon the petitioner.

It is made clear that the petitioner should be heard before any such decision is taken and be allowed to put forward his own case before the competent authority.

The entire exercise should be completed within a period of two months from the communication of this order.

The writ petition is thus disposed of.

All the parties are directed to act on the basis of the server copy of the order.

(Shampa Sarkar, J.)