

MAT 1151 of 2024
CAN 2 of 2024

The State of West Bengal & Ors.
Vs.
Prof. (Dr.) Krushna Chandra Dora & Ors.

Mr. Sirsanya Bandyopadhyay
Ms. Tapati Samanta ... for the appellants

Mr. Barun Kumar Samanta ... for the respondent nos. 1_12

Mr. Amitava Choudhuri
Mr. N. Roy
Mr. P. Siddharta ... for the University

1.

1. We have heard the learned advocates for the parties.
2. The appeal is arising out of a judgement passed by the learned Single Judge on 07.12.2023 in a writ petition in which the petitioners' claim stagnation increment at par with the Government Memo No. 1547-F(P₁)/FA/N/2M/02/22(N.B.) dated April 13, 2022 issued by the Finance Department, Audit Branch, Government of West Bengal.
3. The learned Single Judge has relied upon the decision of a co-ordinate Bench in ***State of West Bengal and Another vs. Dr. Bikash Mohan Sanyal & Others*** reported in ***(2009) 2 CAL LT 317*** to arrive at a finding that the matching grant ought to have been issued by the Government.
4. Mr. Bandopadhyay, learned counsel appearing on behalf of the State has submitted that the said judgement cannot be applicable as the petitioners are the professors at West Bengal University of Animal and Fishery Sciences, Kolkata, which is an autonomous and statutory body and the applicability of the

aforesaid memo cannot be applied to the writ petitioners as they are not the government employees.

5. Moreover, it is submitted that the ROPA – 2019 in paragraph 2 has clearly excluded that benefits of pay revision under ROPA – 2019 in respect of Members of services to whom the University Grants Commission (UGC) is made applicable. It is submitted that the scale of pay of the petitioners are governed by the UGC and the State has merely adopted the scale of pay and that itself would not make them eligible to receive the stagnation increment as contemplated under the aforesaid memo.
6. Learned single Judge has referred to a decision of the hon'ble Supreme Court in ***State of West Bengal and Others vs. Tropical School Employees' Union and Others*** reported in ***(1996) 8 SCC 294*** paragraph 5 in which the Hon'ble Supreme Court has observed that the employees of the university are not the government servants. The respondents are governed by their own rules and regulations and statutes under the respective enactments.
7. Mr. Samanta, learned counsel appearing on behalf of the respondent nos. 1 to 12 submits that by reason of adoption of the scale of pay prescribed by the UGC, has made a pay structure which would be applicable to the writ petitioners. The stagnation benefit as extended to the other employees covered by the aforesaid memo cannot be denied.
8. However, *prima facie*, it appears that Mr. Bandopadhyay has an arguable case on merits as it appears that by reason of exception Clause 2 of ROPA – 2019 the employees enjoying the UGC scale of pay are excluded and that by reason of mere

adoption of scale of pay by the State Government the said employees does not become the employees of the State Government. We admit the appeal and grant of stay of operation of the impugned order till the disposal of the appeal.

9. The appellants shall file an informal paper book with proper index within four weeks from date. All other formalities are dispensed with upon prior service to the respondent nos. 1 to 12. Accordingly, service of notice of appeal upon the respondents stands waived.
10. The application being CAN 2 of 2024 is disposed of.
11. Let the matter appear in the list on 21.7.2025 at the fairly top.
12. However, this order shall not prevent the State Government to consider whether matching grant is possible in respect of the writ petition. In the meantime, the final decision may be placed before this Court on the next date of hearing.
13. The costs deposited in terms of the order dated 20.9.2024 is taken on record.

(Soumen Sen, J.)

(Smita Das De, J)