

21.05.2024
Item No.2
Ct. No. 17
AKG

WPA 24653 of 2013
With
CAN 1/2015 (Old CAN 6271/2015)
(This CAN is not in the File)
Shubhendu Bauli
Vs.
The State of West Bengal & Ors.

Mr. Ekramul Bari,
Mr. K. M. Hossain,
Ms. Keya Sutradhar,
Mr. Kazi A. Ali

...for the Petitioner

Mr. Amitava Chaudhuri,
Mr. N. Roy

...for the University

Mr. Somnath Ganguli,
Mr. Sukalpa Seal,
Mr. Tapas Kr. Dey

...for DPI

Mr. Jayanta Samanta,
Mrs. Indramouli Banerjee

...for the State

The petitioner, in this case, is serving as a Coach at Kalyani University. The petitioner has filed this writ petition with the grievance that he should be paid salary in parity with a Coach serving in a college affiliated to Kalyani University.

This writ petition was filed in the year 2013 and the matter has been heard from time to time by this Court.

In the course of hearing of this writ petition before this Court, the State has filed an affidavit with regard to the claim of the petitioner. The relevant part of the affidavit filed by the State is quoted below:

“4. Before dealing with the statements and/or allegations made in this Said supplementary Affidavit, I beg to state as follows:

a) It is well settled principle that an employee of an university can claim parity in all respect to other employees of University, but not with Teachers of Government College.

Your answering deponent craves leave to produce the relevant Judgments at the time of hearing if necessary at all.

b. It is also settled that a person having been appointed as instructor or coach in Physical Education (P.E.) in a college holds a Teaching Post, but on the contrary, a Person Designate to the same post in University does not become a teacher of the University as the same is followed by the scheme of University Grants Commission (UGC).

C. The fact further remains that the State had issued a notification being No. 1306/22/EDN (U)/EH/1U-77/17 dated 30.12.2019, whereas the revised pay for teachers in the universities and colleges have been fixed as per regulation 2 (ii).

That after coming into operation of the aforesaid notification the Petitioner is only entitled to notional benefits on and from 01.01.2016.

A photocopy of the aforesaid notification being No. 1306/22/EDN (U)/EH/1U-77/17 dated 30.12.2019 is annexed hereto and marked with R-1 herein.

d. That the other similarly circumstanced coaches or instructors have been favored with certain benefits provided by the University itself which do not have any grant from the State and therefore the liability is upon the University for providing any benefit to any of the coaches or instructors at par, where the State is not at all obliged to neither perform, nor look into the same.

e. That in view of the above the petitioner do not claim any other benefit apart from the above.

Now I shall traverse and deal with the paragraph wise statements and/or allegations made in the Supplementary Affidavit.”

It has been submitted by the university that if the State in principle agrees to extend the benefit of the said circular No.1306/22/EDN(U)/EH/1U-77/17 dated December 30, 2019 to the petitioner, the university has no objection.

The affidavit filed by the State clearly goes to suggest that that the petitioners are entitled to the benefit of the said circular No.1306/22/EDN(U)/EH/1U-77/17 dated December 30, 2019.

Mr. Bari, learned advocate appearing for the petitioner submits that the petitioner should be given the benefit of the circular from the date of his joining.

I find no substance in the submission. When the petitioner has agreed to receive the benefit of the circular which specifically mentions a cut-off date, the petitioner must receive the benefit with that specific condition.

In that view of the matter, this writ petition is disposed of with a direction upon the university as well as the State to revise the pay-scale of the petitioner in terms of the notification no. 1306/22/EDN (U)/EH/1U-77/17 dated December 30, 2019 within two months from the date of communication of this order.

It is made clear that in terms of the order dated December 30, 2019, the petitioner will be entitled to receive the actual benefit with effect from January 1, 2020 and notionally from January 1, 2016.

WPA 24653 of 2013 is disposed of.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)