

HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

WPA 24130 of 2024

Mrs. Swagata Sanyal Lahiri

Versus

Shree Agrasain College & Ors.

For the petitioner : Mr. Partha Sarathi Bhattacharjee,
Sr. Adv

Mr. Tanmoy Mukherjee
Mr. Pronobendra Nath Moitra
Mr. Ayan Kumar Boral
Ms. Paromita Moitra
Mr. Raju Bhattacharjee

For the respondent college Mr. Debjyoti Basu
Mr. Parashar Baidya

For the university of Calcutta Mr. Nilotpall Chatterjee
Mr. Satyaki Banerjee

Heard on : 17.01.2025

Judgment on : 17.01.2025

JAY SENGUPTA, J:

This is an application praying for direction upon the respondent authorities to immediately set aside and cancel the termination letter dated 30.07.2024 and the letter dated 13.09.2024 issued by the respondent college authorities, particularly the Chairman of the respondent college and

to reinstate the petitioner to the post of Assistant Professor, Department of Commerce and Business Administration of the respondent college with arrear salaries and interest with immediate effect.

Learned senior counsel representing the petitioner submits as follows. The petitioner was appointed as an Assistant Professor by the respondent college in the year 2015. Suddenly, by a letter dated 30.07.2024, her service was terminated. Among other things, a ground was taken that she had purposely made certain students fail to pass tests by granting them one or two marks short. Thus, the termination is punitive in nature warranting adherence to principles of natural justice and affording right of hearing. No such opportunity of hearing was provided. No show-cause notice was given and no inquiry was done on the question of termination. The petitioner also relies the West Bengal College Teachers (Security of Service) Act, 1975. Section 6 of the said Act provides that even the services of a temporary teacher shall not be terminated before expiration of the period for which he was appointed except after serving one month's notice or paying him one month salary in lieu thereof. For a permanent teacher, a full-fledged inquiry ought to be done and an opportunity of hearing should be accorded. Only after that, the question of termination can be decided. But, the same was not done in the present case.

Learned counsel appearing on behalf of the respondent University submits as follows. If a teacher of a college is terminated from service, especially if it is affiliated to the University of Calcutta, not only would the West Bengal College Teachers (Security of Service) Act, 1975 apply, but the

Calcutta University First Statutes, 1979 would also be applicable. Statute No. 113 of the said Statutes provides that no order imposing any of the disciplinary measures mentioned in the Statutes shall be issued without informing the teacher concerned of charges against him and giving him an opportunity of being heard and except after an inquiry held as per principle of natural justice and a manner prescribed by the governing body of the college. In fact, if a penalty is imposed not only the teacher, but the concerned University shall also be informed about the same. It appears that in the instant case, no inquiry was held and thus, no opportunity of hearing was given to the teacher before her termination.

Learned counsel appearing on behalf of the respondent nos. 1 to 4 denies the allegations and submits as follows. After the decision was taken, a representation was made by the learned advocate of the petitioner and the case of the petitioner was reviewed by a panel. A committee was constituted from amongst teachers of the college and the petitioner was offered a right of hearing.

Thus, it was an admitted fact that no show-cause notice was issued to the petitioner. Nor was any departmental inquiry done or any opportunity of hearing given to the petitioner before her services were terminated.

An alleged subsequent offer to place her case is no substitute for hearing the petitioner before a decision is taken regarding termination of services.

Not only has there being a violation of provisions of the West Bengal College Teachers (Security of Service) Act, 1975, but the Statute 113 of the Calcutta University First Statutes has also been violated. The principles of natural justice have not been complied with in arriving at the decision to terminate the services of the petitioner.

In view of the above, the impugned termination letter dated 30.07.2024 and the subsequent letter dated 13.09.2024 issued by the college authorities are quashed and set aside and the respondents are directed to reinstate the petitioner and pay the arrear salaries with an interest at the rate of 6% per annum.

However, the college authorities shall be at liberty to initiate appropriate disciplinary proceeding on their charges as discussed earlier strictly in accordance with law and by complying with the Act in question as also the Calcutta University First Statutes.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J)