

24.02.2026
Court No.25
D/L No.18
S. Gayen

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 16659 of 2023

**Bidisha Bhattacharjee
Versus
Visva-Bharati & Ors.**

Mr. Raghunath Chakraborty
Ms. Mohana Das
Mr. Rahul Singh

...for the Petitioner

Mr. Victor Chatterjee
Mr. Pramitava Nath

...for the Visva-Bharati

1. The petitioner has filed the present writ application challenging the order passed by the Chairperson, Centre for Endangered Languages and Visva-Bharati University, Santiniketan, Birbhum dated 22nd August, 2022 wherein, it is held that the decision of the Review Committee taken on 17th February, 2020 seems to have taken after considering the duties and responsibilities fulfilled by the petitioner. The petitioner was appointed as Assistant Professor (temporary/project), Centre for Endangered Languages (CFEL) and Visva-Bharati University on 13th April, 2015. Since then the petitioner was working as Assistant Professor in the said institution. On 11th February, 2020 an email was sent to the petitioner requesting to the petitioner to appear before the Review Committee for appraisal of her performance in the

project over the last four years on 17th February, 2020 at 11:30 am in the office of the Chairman. The petitioner has not appeared before the Committee in terms of the email dated 11th February, 2020. Accordingly, on 17th February, 2020 the Review Committee has taken a decision with the approval of the competent authority by terminating the service of the petitioner after one month from the issuance of the email dated 31st March, 2020.

2. Being aggrieved by the email dated 31st March, 2020 wherein, the service of the petitioner has been terminated, the petitioner has preferred a writ petition before this Court being WPA 9886 of 2020. The said writ petition was disposed of by an order dated 24th August, 2021 by giving a liberty to the petitioner to make a comprehensive representation before the Chairman, Centre for Endangered Languages highlighting her grievances and directed the respondents to consider the representation if any made by the petitioner by giving a opportunity of hearing to the petitioner and pass a reasoned order within six weeks from the date of receipt of the representation from the petitioner.
3. In terms of the order passed by this court dated 24th August, 2021, the petitioner has made representation to the authorities. On receipt of the representation of the petitioner, the authorities by a letter dated 12th

November, 2021 requested the petitioner to provide justifications or clarifications with respect of nine queries raised in the said communication within fifteen days. On receipt of the said letter, the petitioner has submitted her clarifications to the respondent authorities. After considering the clarification made by the petitioner, the authorities have passed the impugned order.

4. Learned counsel appearing for the petitioner submits that the petitioner has made a detailed representation as well as the clarifications as per queries made by the authorities but the respondent authorities, without considering the representation submitted by the petitioner as well as the clarifications the respondent authorities have passed the impugned order. He submits that initially by a communication dated 11th February, 2020 requested the petitioner to appear before the Review Committee only for the purpose of appraisal of the performance of the petitioner in the project for four year but unfortunately the petitioner could not appear before the authorities as she was under medical treatment in Delhi and the said fact was in the knowledge of the authorities but in spite of the same, without giving any further opportunity of hearing to the petitioner, the authorities have taken a decision for termination of the service of the petitioner

which was communicated to the petitioner on 29th February, 2020.

5. Learned counsel for the petitioner further submits that initially the authorities have issued the notice only with regard to the appraisal of the petitioner for performance in the project for four years. But subsequently the respondent authorities have made several queries by a communication dated 12th November, 2021 and in the impugned order dated 22nd August, 2022 the authorities have considered the incident of 2016 which was not the subject matter. He further submits that the authorities have also not discussed the clarifications made by the petitioner in terms of the queries raised by the authorities on 12th November, 2021.
6. Learned counsel for the petitioner has relied upon the judgment in the case of **Om Prakash Goel vs. Himachal Pradesh Tourism Development Corporation Ltd., Shimla & Anr.** reported in **(1991) 3 SCC 291** and submits that the petitioner was terminated by a communication dated 29th February, 2020 but this Court by an order dated 24th August, 2021 given liberty to the petitioner to file a detailed representation and the petitioner has submitted detailed representation but the authorities have not considered either the representation or the clarifications but have passed the impugned order

which is liable to be quashed and the petitioner is entitled to be reinstated with full back wages.

7. He further relied upon the judgment in the case of ***Tekraj Vasandi alias K. L. Basandhi vs. Union of India & Ors.*** reported in **(1988) 1 SCC 236** and submits that once the order of termination is set aside, the petitioner is to be reinstated with all the consequential benefits as the petitioner has not earned anything in the mean time.
8. *Per contra*, learned counsel appearing for the respondent authorities submits that initially the authorities have issued a notice to the petitioner to appear before the Review Committee for appraisal of her performance in the project over the last four years but the petitioner in spite of receipt of notice failed to appear before the Committee. Thus, the authorities have no other option but to terminate the petitioner. He submits that the petitioner is not the regular employee. She has been appointed on temporary basis in a project work and the petitioner cannot claim the benefit equivalent to the regular employee. He further submits that after the order passed by this Court the petitioner has submitted the detailed representation and on receipt of the detailed representation the authorities were of the view that the clarification is required and accordingly by a letter dated 12th November, 2021 the authorities have requested the

petitioner to file the clarification and the petitioner has filed the clarification. After considering the clarification, the authorities have come to the conclusion that the clarification made by the petitioner is not justifiable. Thus, the representation submitted by the petitioner was rejected.

9. Learned counsel for the respondents relied upon the judgment in the case of **Syndicate Bank vs. Vidya G. Nayek** reported in **2001 (2) LLN 952** and submits that the act of the petitioner is not a misconduct, it is only a negligence. Under such, no regular enquiry is required to be initiated against the petitioner.
10. Heard the learned counsel for the respective parties and perused the materials on record and judgments relied upon the parties. This Court finds that on 11th February, 2020 the respondent authorities have requested the petitioner to appear before the Review Committee for appraisal of her performance over the last four years. The petitioner could not appear before the Committee. Immediately on 17th February, 2020 the Committee has taken a decision for termination of the petitioner from service and the same was communicated to the petitioner by an email dated 29th February, 2020. The documents which the petitioner has relied upon established that the petitioner was not in West Bengal and she was in Delhi under medical treatment from 5th February, 2020 to 20th February,

2020. The respondents have not considered the said document. The authorities without giving any further opportunity on the same day taken decision of termination of the service of the petitioner.

11. This Court by an order dated 24th August, 2020 has passed the following order:-

“In view of the above, the instant writ petition is disposed of by granting liberty to the petitioner to make a comprehensive representation before the Chairman, Centre for Endangered Languages highlighting her grievances.

In the event such a representation is made within a fortnight from date along with supporting documents, the said respondent shall consider the same after giving an opportunity of hearing to the petitioner and pass a reasoned order at the earliest, but positively within a period of six weeks from the date of receipt of the representation from the petitioner. The said respondent shall communicate the reasoned order to the petitioner immediately thereafter.

The writ petition along with connected application stands disposed of.”

12. The petitioner has made a detailed representation to the authorities. On receipt of the representation, by a communication dated 12th November, 2021 asked for the following clarifications:-

“1. As per responsibility of your Post and nature of job at Centre for Endangered Languages, Visva-Bharati, what have you done to fulfill the Centre's target during your job for period of approximately 4 years 10 months?”

2. During your tenure, how many reports you have submitted and the obtained certificates for the submission of papers may be submitted

3. While you were employed, how many field works for linguistic data collection were conducted" In how many such field works you were present at the locations for performing your academic responsibilities?

4. While you were employed, how many languages were surveyed by the centre and how many languages have you completely analyzed followed by submitting the formal report for the same?

5. As per your leave application dated 15-10-2019 you were granted leave for preparing the detailed report of languages surveyed at the Centre You claimed in the online hearing that you are in possession of one 70-80 paged report of Mahali You are advised to send this report at the earliest.

6. In your e-mail dated 27th January, 2020, you promised to prepare a report on Koda. Kindly provide explanations with regards to the status of this report.

7. As per your claim in the online hearing regarding your important contribution in the preparation of the field manual (titled

*"Languages & Cultures on the Margin
Guideline for Field Work on Endangered
Languages written by Udaya Narayana
Singh In Association With Bidisha
Bhattacharjee, Rajib Chakraborty &
Arimardan Kumar Tripathi") of the Centre,
this is to remind you that other two co-
contributors were also there in addition to the
main contributor, the then Chairperson Prof.
Udaya Narayana Singh. In an e-mail
addressed to you dated 12th April, 2016 he
says, "... I had to practically write 70-80
pages of the Manual assigned to you by
making it look like a proper monograph-
which I am not expected to do. The other two
have also done their bit."*

*Would you please submit your justification on
this remark.*

*8. It has come to notice that, you had applied
for leave from 05/02/2020 to 20/02/2020,
but you joined on 24 02.2020 and did not
apply for further leave for period of
21/02/2020 to 23/02/2020. You are
advised to submit the reason for doing so.*

*9. You had also not submitted any medical
certificate (which is mandatory) to the office
when you resumed your duties. Please
provide reasons for such an omission."*

13. The authorities have asked for nine clarifications from the petitioner. By the impugned order, the authorities have come to the conclusion that the questions raised by the authorities from question Nos. 1 to 7 lacks any

credible evidence and most of the responses are evasive by citing lack of sufficient data or fictitious submission to the former authorities.

14. This Court failed to appreciate that the authorities have initially terminated the petitioner only on the ground that the petitioner has not submitted the appraisal of her performance of the past project for the last four years as per date fixed by the authorities. Subsequent to the representation received by the authorities in terms of the order passed by this Court, the authorities have raised certain other issues which were not in the original issues, on the basis of which the petitioner was terminated. In the impugned order at paragraph 6, the Chairperson has taken into consideration the email dated 12th April, 2016 and alleged that the petitioner lack sincerely towards assigned work, used to be frequently on leave and needed frequent medical support for herself and parents. The said charges/allegations not in the original notice, on the basis of which the petitioner has been terminated.

15. This Court by an order dated 24th August, 2021 given liberty to file representation and the authorities are directed to consider the same but the respondent authorities in spite of considering the representation of the petitioner have made other allegations which were not in the original notice dated 11th February, 2020.

The authorities have also failed to consider that in the email dated 11th February, 2020, the petitioner was directed to appear before the authorities on 17th February, 2020 but the petitioner has disclosed the documents to show that the petitioner was under medical treatment at Delhi from 5th February, 2020 to 20th February, 2020. The said aspect was also not considered by the authorities.

16. In the case of **Tekraj Vasandi alias K. L. Basandhi** (supra) the Hon'ble Supreme Court held as follows:-

“22. Before we part with this case, we must indicate what reliefs the appellant would be entitled to. Now that the order of the dismissal is set aside and the proceedings have been restored to the stage of enquiry, the appellant shall be deemed to have been restored to service. The appellant would have become entitled to the normal relief available in such a situation. He should be deemed to be in service and we do not agree with Dr. Anand Prakash that his suspension should continue. His suspension which had merged into dismissal has been vacated. It shall, however, be open for the employer to make any direction as is deemed appropriate in that behalf in future. The appellant, therefore, becomes entitled to the salary for the past period subject to his satisfying the authorities that he has not earned any other income during that period. The appellant shall be given reasonable opportunity by the enquiring officer to meet the charges and the

enquiry shall be completed within four months. The appellant has personally assured us in court that he will fully cooperate in the enquiry. The enquiry office shall allow inspection to the appellant of all records relevant to the enquiry.”

17. In the present case one notice was issued to the petitioner directing the petitioner to appraise the with regard to her performance for the last four years but the petitioner has not appeared before the authorities as she was in medical treatment. The authorities have not considered the same and terminated the service by a communication dated 29th February, 2020. As per the leave granted by this Court, the petitioner has submitted a detailed representation. On receipt of the detailed representation, the authorities have raised further allegations against the petitioner by a letter dated 12th November, 2021.

18. This Court finds that the authorities have exceeded their jurisdiction by incorporating further allegations against the petitioner on receipt of the representation submitted by the petitioner. This Court also finds that in the impugned order the authorities have taken into consideration of the email dated 12th April, 2016 which was not the subject matter for termination of the petitioner.

19. Considering the above, the impugned order dated 22nd August, 2022 and the email dated 29th February, 2020 are set aside and quashed.
20. However, the quashing of the email dated 29th February, 2020 and order dated 22nd August, 2022 proceeding will not prevent the authorities to take fresh steps against the petitioner, if the authorities intend to initiate any proceeding against the petitioner. As the petitioner was terminated on 17th February, 2020 and since then the petitioner is not performing any duties with the respondent authorities, the petitioner is not entitled to get any back wages but the petitioner is entitled to reinstate in the service from the date of receipt of this order.
21. WPA 16659 of 2023 is disposed of.
22. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.
23. Urgent Photostat certified copy, if applied for, be given to the parties upon compliance with all formalities.

(Krishna Rao, J.)