
(2018) 06 CAL CK 0217
In the Calcutta High Court
Case No : Writ Petition14179 (W) of 2017

Dr. Anupam Hazra

APPELLANT

Vs

Union Of India & Ors.

RESPONDENT

Date of Decision : 25-06-2018

Acts Referred:

Citation : (2018) 06 CAL CK 0217

Hon'ble Judges : ARINDAM SINHA, J

Bench : Single Bench

Advocate : Subrata Roy Karmakar, Anil Kumar Gupta

Final Decision : Disposed Of

Judgement

Record of submissions and observations in order dated 11th June, 2018 are reproduced below as necessary for the purpose of disposal of this writ

petition. â??Petitioner appears in person. He demonstrates facts to be as follows:

By order dated 7th June, 2014 he was granted extra ordinary leave (without pay) for a period of one year up to 1st June, 2015. By office order dated

12th May, 2015 the University conveyed that said leave is going to expire on 1st June, 2015 and petitioner is expected to get a clearance from Lok

Sabha Secretariat and rejoin duty on or before 1st June, 2015 failing which he will be deemed to have reverted back to his parent organization, Assam

University Silchar. On 26th May, 2015 petitioner, as appears from disclosure at page 58 of the writ petition, sought to resume duty. By writing dated

28th May, 2015 of Head, Department of Social work of the University, inter alia, following was said:

â??In accordance with the above mentioned Office Orders the application does not satisfy the required conditions. The Department does not take

cognizance of your application and cannot permit you to resume duties.â??

Subsequently by another writing dated 2nd June, 2015 the next incumbent to the office of Head, Department of Social Work of the University stated

as follows:

â??With reference to your above letter this is to inform you that Dr. Anupam Hazra, Assistant Professor, has not reported to the undersigned till

today i.e. 2nd June, 2015. This is for your information and record.â??

On 13th August, 2015 Joint Department on Offices of Profit (Sixteenth Lok Sabha) Fourth Report was presented from which the following is

extracted below:

â??Therefore, Dr. Anupam Hazra can hold both the offices of Member of Parliament and that of Assistant Professor at the Visva-Bharati

University, as under Article 102(1)(a), the office of Assistant Professor does not qualify as an office of profit under the Government. Further, it is held

by the Joint Committee on Offices of Profit that since the office of Assistant Professor at the Visva-bharati University is not an office under the

Central Government in the absence of vital requirements, the University may resolve the matter on its own in light of the specified service

requirements. In doing so, the Committee recommends that the directions of the UGC Circular dated 10th September, 1974 and 06 March, 1987 and

the circulars issued from time to time regulating the service conditions of teachers be strictly followed by the University.â??

Mr. Gupta, learned advocate appears on behalf of University Grants Commission and files affidavit-inopposition. He refers to circular letter dated 10th

September, 2014 issued by his client to Vice Chancellor of Universities. It would be sufficient to extract the following from the said letter. â??The

University Grants Commission had referred this question earlier for advice to its Advisory Committee of Vice-Chancellors and the Commission after

considering the advice of the Committee of Vice-Chancellors had expressed the view that â??the teachers who are either elected or nominated to the

Parliament/State Legislature may not be required to resign their academic position or to take long leave during the tenure of their membership. In

order that the teaching work may not suffer, the University may consider prescribing the minimum number of days that such teachers should be

available for their academic teaching and research work in the University. Such

teachers should not hold any administrative position/responsibilities in the University or College during the period they are members of parliament/Legislature.â??

It appears petitioner wants to resume working with the University. He had filed this writ petition in June, 2017 and has been prosecuting the same.

University will consider whether it sought to jump the gun. Reason attributed for not allowing petitioner to join may have been good reason as on May-

June, 2015 but on or after 13th August, 2015 such reason stood obliterated.â? Mr. Roy Karmakar submits, petitioner joined as a probationer. In

prescribed period of probation of one year petitioner did not serve any time beyond four months. That period not having been extended, has expired.

He is opposing order directing petitioner to be allowed to resume as probationer. Dr. Hazra disputes the submission that he was on probation.

According to him, he is confirmed in service.

Petitioner had challenged Memo dated 2nd June, 2015 and impugned notification dated 16th February, 2015. Impugned notification states, inter alia,

petitioner was requested to submit a clearance from Lok Sabha Secretariat to the effect that he could simultaneously function as Honâ??ble Member

of Parliament and Assistant Professor, Department of Social Work, Visva Bharati. In that view, all concerned were requested not to entertain

petitioner in department or assign any teaching load to him during his Lok Sabha membership. Relevant text of the impugned office order dated 2nd

June, 2015 is extracted below:

â??However, Dr. Anupam Hazra, has failed to join his duties in the Department of Social Work till 2nd June, 2015 after expiry of Extra-Ordinary-

Leave (EOL). In view of the above, undersigned is directed to convey that:

1. Dr. Anupam Hazra, Assistant Professor, Department of Social Work, who is on lien from Assam University, Silchar is presumed to have reverted

himself back to his parent organization.

1. Name of Dr. Anupam Hazra, Assistant Professor, Department of Social Work will cease to be borne on the roll of Establishment of Visva-Bharati

with immediate effect.â??â??

Based on materials recorded in order dated 11th June, 2018 I am of the view petitioner cannot be prevented from resuming his service, as probationer,

if that is his position. At the time he was resisted from resuming work in Visva Bharati, his probationary service, as contended by the University, appears to have been subsisting. This, in spite of submissions made on behalf of Visva Bharati that no extension was granted. Whether petitioner is to be granted extension of alleged probation, to carry out remainder of the year of alleged probationary service is for the University to decide but at this time it cannot prevent him from resuming his service. There will be direction accordingly.

The University is directed to allow petitioner to resume his service since the only ground of resistance being whether he could be both a Member of

Parliament as well as serve in the University has been answered in the fourth report of Joint Committee on Offices of Profit which was presented to

Lok Sabha on 13th August, 2015. Petitioner will obtain copy of this order and present himself for resuming his service within three weeks from date.

Writ petition is disposed of. Mr. Roy Karmakar prays for stay of operation of this order. Prayer is considered and rejected.