
(2018) 04 CAL CK 0140
In the Calcutta High Court
Case No : Writ Petition 14552 (W) of 2017

Dr. Satyadeo Prasad & Anr.

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

Date of Decision : 30-04-2018

Acts Referred:

Citation : (2018) 04 CAL CK 0140

Hon'ble Judges : ARINDAM SINHA, J

Bench : Single Bench

Advocate : Anurag Oja, Amarendra Chakraborty, Partha Sarathi Sengupta, Soumya Majumder, Joydip Kar, Aparajita Rao, Tapan Kumar Mukherjee, Debasish Basu, Anil Kr. Gupta

Judgement

Under challenge in this writ petition are communications both dated 21st April, 2017 made by Presidency University, separately to petitioners, text of

which is reproduced below :-

â??I am directed to inform you that your performance during the probationary period of service has been found unsatisfactory. It has been decided

not to further extend your period of probation which will expire on 26.05.2017 and not to confirm your service. Therefore you are discharged from

your probationary service of the Presidency University, Kolkata, forthwith.â??

Mr. Sengupta, learned senior advocate appears on behalf of the University and submits, he has a preliminary objection as to the maintainability of the

writ petition as brought by petitioners regarding their separate service matters.

Mr. Oja, learned advocate appears on behalf of petitioners and draws

attention to their identically worded letters of appointment from which, the following is extracted :-

â??Your service with the University will be governed by its service rules and this includes a probation period of one year from the date of joining this

University.â?? He next refers to service rules of the University regarding period of probation and confirmation. The same is set out below :-

â??PERIOD OF PROBATION AND CONFIRMATION

The period of probation shall be one year extendable by a maximum period of one more year in case of unsatisfactory performance. The confirmation

at the end of one year shall be automatic, unless extended for another year by a specific order before expiry of the first year. It is obligatory on the

part of the university to issue an order of confirmation to the incumbents within 45 days of completion of probationary period However, at the

discretion of the Vice Chancellor, the service may be confirmed earlier than one year if it is needed to strengthen the university in administrative and

academic affairs on urgent basis.â? He also relies on University Grants Commission Regulations, 2010 regarding period of probation and confirmation,

in particular Regulations 11.1, 11.2 and 11.5. They are set out below :-

â??11.0 PERIOD OF PROBATION AND CONFIRMATION

11.1 The minimum period of probation shall be one year extendable by a maximum period of one more year in case of unsatisfactory performance.

11.2 The confirmation at the end of one year shall be automatic, unless extended for another year by a specific order, before expiry of the first year.

11.3 . â?! â?! â?! â?!

11.4. â?! â?! â?! â?!

11.5 - All other Central Government rules on probation and confirmation shall be applicable mutatis mutandisâ? He submits, with reference to office

memorandum dated 21st July, 2014 issued by Government of India, Ministry of Personnel, Public Grievances and Pensions that instruction no. 8 in the

annexure applies to the case of his clients. That instruction is reproduced below :-

â??8. A probationer, who is not making satisfactory progress, should be informed of his shortcomings well before the expiry of the original

probationary period so that he can make special efforts at self-improvement. This can be done by giving him a written warning to the effect that his

general performance has not been such as to justify his confirmation and that, unless he showed substantial improvement within a specified period, the

question of discharging him would have to be considered. Even though this is not required by the rules, discharge from the service being a severe, final

and irrevocable step, the probationer should be given an opportunity before taking the drastic step of discharge.â??

Mr. Oja then relies on two judgments of Supreme Court in the cases of Dr. Mrs. Sumati P. Shere vs. Union of India (UOI) reported in AIR 1989 SC

1431 and Pradip Kumar vs. Union of India & Ors. reported in (2012) 13 SC 182. UGC Regulations, 2010 make applicable all other Central

Government rules on probation and confirmation. The office memorandum relied on are instructions issued. It appears to this Court that the University

did not extend the initial period of probation. That period was terminated before it ended. This is a distinguishing factor for the application of the

judgements cited by Mr. Oja. Petitioners are granted adjournment to make submissions regarding any authority on probation period being extendable

mandatorily. List on 14th May, 2018.