

(2016) 06 GAU CK 0033
In the Gauhati High Court
Case No : W.P. (C) No. 3591 of 2009

Madan Chandra Das (Dr.)

APPELLANT

Vs

State of Orissa

RESPONDENT

Date of Decision : 14-06-2016

Acts Referred:

Citation : (2016) 3 GauLT 628

Hon'ble Judges : Mr. Manojit Bhuyan, J.

Bench : Single Bench

Advocate : Mr. G. Uzir, Advocate, for the Appellant; Mr. J. Deka and Mr. A. Chamuah, Advocates, for the Respondent

Final Decision : Allowed

Judgement

Manojit Bhuyan, J. (Oral) - Heard Mr. G Uzir, learned counsel for the petitioner as well as Mr. J Deka, learned counsel representing the respondent nos. 2 and 3. Mr. A Chamuah, learned counsel represents respondent nos. 5 and 6. None for the respondent nos. 1,4 and 7 appears when the matter is taken up for final hearing.

2. The petitioner Dr. Madan Chandra Das is presently an Associate Professor in the Department of Chemistry at North Guwahati College, Kamrup (R). The career progression of the petitioner has been succinctly laid down in the writ petition. Following his appointment as a Lecturer in the said College on 07.06.1987, provisional approval thereof was granted by the Director of Higher Education, Assam, on 16.03.1995. His services was confirmed by order dated 30.05.1997 and thereafter by orders of the competent authority, he was granted necessary increments as well as Senior Scale of pay. What is of utmost significance is that the petitioner was awarded the distinction of Doctor of Philosophy (Ph.D) by the Gauhati University on 05.07.2005 and thereafter orders were passed relating to his fixation of pay in the Selection Grade Scale of pay.

3. A Notification was issued on 28.07.2009 under the hand of the Principal Secretary to the Government of Assam, Education (Higher) Department, Dispur,

indicating that those Lecturers, who were allowed to avail UGC scale of pay without having UGC qualification, the said benefit would stand modified to the extent that they would be entitled to enjoy the incremental benefit in the UGC scale of pay only after obtaining M. Phil/ Ph.D Degree within eight years, failing which their services would stand discontinued. Also, they would not be eligible for Senior Selection Grade scale of pay until they fulfil the condition as laid down under the UGC norms. The said general Notification was followed by the order dated 29.07.2009, passed under the hand of the Director of Higher Education, Assam, making it specific in respect of the petitioner herein. Despite the fact that the petitioner had obtained Ph.D Degree way back in July, 2005 and also being accorded Selection Grade scale of pay in September, 2008, the said order came to be passed reiterating that the petitioner would be entitled to enjoy the incremental benefit in the UGC scale of pay of Rs.2200/- to Rs.4000/- only after obtaining M.Phil/ Ph.D Degree or NET/ SLET within eight years, failing which, his services will be discontinued.

4. The petitioner is aggrieved of the order dated 29.07.2009 (Annexure-H) and submits that the same had been passed without due application of mind. According to Mr. Uzir, no exercise was undertaken by the State respondents to ascertain the academic status of the petitioner prior to the passing of order dated 29.07.2009. Mr. Uzir reiterates that the petitioner had been awarded Ph.D. Degree by the Gauhati University on 05.07.2005 and he had also been accorded Selection Grade scale of pay in the year 2008. Therefore, the order dated 29.07.2009 is non-est in so far as the present petitioner is concerned.

5. An affidavit-in-opposition has been filed on behalf of the respondent no. 3 i.e. Director of Higher Education. A perusal of the same shows that a fair stand has been taken by the State respondents, as would be apparent from paragraph 8 thereof. For better appreciation, the said paragraph 8 is reproduced hereunder:

"That, it is stated that some lecturers like the petitioner in the present case had approached this Hon"ble High Court challenging the said Order dated 29.07.2009 in the present case. It is stated herein that after it was detected that the petitioner was appointed in the year 1987 and his services has already been approved by the Government in the year 1991 after being selected by the State Selection Board, on the recommendation of the State Selection Board, he was accorded with the Selection Grade Scale of Pay. Further it is stated that as the petitioner has already obtained his Ph. D Degree therefore, the petitioner is entitled for the UGC Scale of pay as prescribed under the UGC Regulations."

6. It does transpire that having regard to the fact that the petitioner is a Doctorate having obtained the necessary Degree in the year 2005 and also having been extended the benefit of Selection Grade scale of pay in the year 2008 and also having regard to the clear stand of the State respondents, as above, this writ petition does not survive for any further consideration. The clear stand of the State respondents is that the petitioner is entitled to UGC scale of pay as prescribed under the UGC Regulations. Also, the stand taken is that

pursuant to his appointment in the year 1987, his services had been approved by the Government after being selected by the State Selection Board and thereafter he was accorded Selection Grade scale of pay and had also obtained his Ph.D Degree.

7. In view of the above, this writ petition stands disposed of after taking notice of the stand of the State respondents. The order dated 29.07.2009, passed by the Director of Higher Education, Assam (Annexure-H) per se do not apply to the petitioner, and, as such, no embargo is caused upon the petitioner towards his entitlement to UGC scale of pay as prescribed under the UGC Regulations.

8. In view of the above, this writ petition stands allowed. No costs.