
(2011) 09 CAL CK 0128
In the Calcutta High Court
Case No : Writ Petition No. 238 (W) of 2007

Soma Bandopadhyay

APPELLANT

Vs

University of Calcutta

RESPONDENT

Date of Decision : 22-09-2011

Acts Referred:

Citation : (2012) 1 CHN 201

Hon'ble Judges : Tapen Sen, J

Bench : Single Bench

Advocate : Sardar Amzad Ali, Narayan Ch. Mondal, Anita Khatri, Sunanda Sil and Sankar Sarkar, for the Appellant; Biswaroop Bhattacharya for the University, for the Respondent

Judgement

Tapen Sen, J.—Heard the parties.

The petitioner, Dr. Soma Bandopadhyay, applied for a teaching post of Lecturer in Hindi, pursuant to an Advertisement, which was published on 06/5/2005 being Advertisement No. Wst/2/2005. By reason of the said advertisement, applications were called for to fill up the post of two Lecturers in the department of Hindi. Interview was subsequently held and the petitioner was asked to appear before the Selection Committee on 06/7/2006. Thereafter, the petitioner appeared on the said day before the Selection Committee.

2. In paragraph 11, the Petitioner has stated that there was an earlier Advertisement of 2002 also, and against the said Advertisement, the respondents selected one Dr. Rajashree Sukla Upadhyay but from the Advertisement of 2005, the respondent authorities selected the respondent No. 11 Dr. Alhad Chowdhury and the petitioner. Thereafter, out of the three qualified empanelled candidates in respect of both the Advertisements only two were appointed but the petitioner's appointment was withheld. According to the petitioner, Dr. Rajashree Sula Upadhyay was selected from amongst the candidates interviewed against the 2002 Advertisement but the requirement and the vacancy in respect of 2005 candidates by not appointing two persons was not

fulfilled. In paragraph 27, the petitioner has however, stated that in order to "cover up their misdeeds", the University of Calcutta appointed the petitioner on an ad hoc basis and as a guest lecturer in the department of Hindi on an honorarium of Rs. 6,000/- per annum etc. In paragraph 28, the petitioner has stated that at no point of time, she had ever applied for the post of a Guest Lecturer. It is her consistent case that she applied as a full-fledged lecturer and she was selected as such.

3. It is admitted at the Bar by the learned Counsel appearing for the parties that the petitioner is still continuing to work as a Guest Lecturer.

4. Mr. Biswaroop Bhattacharya, learned Counsel appearing for the University, has drawn my attention to the proceedings of the Selection Committee (Annexure R-1), which goes to show that in so far as to the 2005 vacancy is concerned, 29 candidates were called and 20 candidates had actually turned up. It is also evident that the committee recommended, in order of "preference", a panel of names of two posts of Lecturers in the department of Hindi and those names are (i) Ram Ahlad Chowdhury; (2) Soma Bandyopadhyay; (iii) Sunil Kumar Dwivedi and (iv) Gita Dubey.

5. It is thus, evident, upon a perusal of Annexure R-1 itself, that this petitioner was placed at serial No. 2. From the submissions made by the learned Counsel appearing for the University, this Court is satisfied that he has not been able to satisfactorily explain as to why a Guest Lecturer could have been appointed against an Advertisement for a Regular Lecturer. An effort however, has been made in paragraph 4(e) of the affidavit-in-opposition that the secretary, UCAC, has submitted a note to the Vice-Chancellor on 28/6/2006 soliciting an approval of 12 Guest Lecturers and one Honorary Lecturer in the department of Hindi.

6. Having considered such a submission, this Court is of the view that such a recommendation and/or note of the Secretary was totally unwarranted and uncalled for considering the fact that it has not been established by the University that the Advertisement was for a Guest Lecturer. In fact, it is not disputed that the Advertisement was only for "Regular lecturer" and not "Guest Lecturer".

7. Under the circumstances, this Court has no option, but to allow the Writ Petition.

8. The Writ Petition is consequently allowed and the University is directed to appoint the petitioner on the post of a Regular Lecturer. This order should not however, mean that it will disturb the persons already appointed.

9. Let it be recorded that on 23/3/2007 another Hon'ble Singh Judge of this Court had passed an interim order directing the University not to fill up the post in question permanently without the leave of the Court.

10. In view of this order now the university is directed to fill up the 2nd post in question by appointing the petitioner.

11. As a consequence, no adverse inference can be allowed to be drawn on the basis of Agenda No. 18 of the Resolution of the Syndicate dated 27th July, 2006, which is a page 14 of the Affidavit-in-Opposition.

12. Subject to an application for certified copy being made and proof in support thereof being produced, let a plain photocopy of this order, duly countersigned by the assistant Registrar (Court), be handed over to the parties. If urgent certified copy of this order, duly photocopied, is applied for by the parties, the same should be given expeditiously.

B.D.