

Sl. No.04
12.04.2022
Court no.1
(Suvendu)

*CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI*

WPA 731 of 2022

Subinay Saha Roy
Vs.
Stat of West Bengal and others

*Mr. Jagriti Mishra
Mr. Subham Gupta
Mr. Reshab Kumar*

... for the Petitioner

Mr. Deborshi Dhar

.....for the Viswavidyalaya

*Mr. Subir Kumar Saha
Mr. Pretom Das*

.....for the State

The petitioner assails the Resolution to Agenda Item No. 70.07 passed by the Executive Council of Uttar Banga Krishi Viswavidyalaya dated 27th January, 2022 pertaining to rejection of the prayer of the petitioner for grant of three advance increments. Agenda Item No. 70.07 of the concerned Minutes record that the statutory provision as per Clause 79 of the First Statutes of the Uttar Banga Krishi Viswavidyalaya with regard to sanction of financial increments contemplates a maximum of 5 to exceptionally qualified or experienced candidates and confers discretion on the Executive Council in acceptance or refusal of the recommendation made by the Selection Committee.

Learned Counsel appearing for the petitioner places documents which show that the petitioner was evaluated by the appropriate committee and recommended for three advance increments which have not been paid to the petitioner till date. Counsel also refers to advertisement for the recruitment, of the respondent University which provides for advance increments up to 5 for exceptionally qualified and experienced candidates.

Learned Counsel appearing for the respondent University submits that the statutory provision in Clause 79 pertains only to exceptionally qualified and experienced candidates and that Executive Council upon assessing the petitioner's credentials has rejected the petitioner's claim for increments.

Upon hearing learned counsel, this court is of the view that the Standing Committee / Selection Committee had recommended on 27th June, 2007 that the petitioner is qualified for three increments. This was the considered decision of the appropriate committee. This decision is in line with Clause 79 which empowers the University to give increments to exceptionally qualified candidates up to a maximum of five. The decision of the Standing Committee was a decision of more than one person and has not been subsequently reversed by the Executive Council of the University. There is no evidence on record that the

petitioner has been assessed as a candidate who does not merit the three increments or that the decision of the Standing Committee was wrong or perverse.

The impugned decision is also without any specific reasons as to why the claim of the petitioner should be negated. The decision only refers to Clause 79 of the First Statutes and reiterates the earlier facts including the order passed by this Court directing the Executive Council to revisit the matter. It also notes that the University did not challenge the order passed by the Court in relation to such direction. The impugned decision suffers from a singular absence of reasons. In any event the decision of the Standing Committee / Selection Committee can be seen to be in the nature of a promise made to the petitioner and the University is hence estopped from changing its position by way of the specific challenge to the decision; Ref. *State of Punjab vs Nestle India Ltd & Another*; (2004) 6 SCC 465.

In view of the above reasons, there shall be an interim order in terms of prayer [c]. The respondents shall not take any steps in terms of the Resolution dated 27th January, 2022 until the matter is finally heard upon affidavits.

The affidavit-in-opposition should be filed within three weeks from date, Reply within a week thereafter.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Moushumi Bhattacharya, J.)