

**Calcutta High Court  
In The Circuit Bench at Jalpaiguri  
Appellate Jurisdiction**

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52 04.09.2024

**WPA 1204 OF 2023**

kc Ct. no.2

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Biplab Das  
Vs.

The Vice Chancellor, University of North  
Bengal and Ors.

Mr. Arik Banerjee, Adv.  
Mr. Joyzit Dutta, Adv.  
Mr. Bikash Singha, Adv.  
....for the petitioner

Mr. Joyjit Choudhury, LD. AAG, Adv.  
Ms. Sunayna Prasad, Adv.  
....for the respondent  
nos. 1 & 2

Mr. Partha Sarathi Bhattacharjee, Sr.  
Adv.  
Mr. Anirban Banerjee, Adv.  
Ms. Jeenia Rudra, Adv.  
....for the respondent no.3

The petitioner as the head clerk of the relevant college has suffered a disciplinary proceeding. Charge-sheet was issued dated September 29, 2022, **annexure – P-2** at page 22 to the writ petition. The petitioner now has challenged through this writ petition the disciplinary proceeding and the various steps leading to his present suspension by the college authority though the disciplinary proceeding is yet to arrive at its final conclusion.

This writ petition has already received attention of a Co-ordinate Bench previously time and again and the order dated **November 16, 2023** speaks for itself. The scope of the writ petition has been enumerated for adjudication therein.

Mr. Arik Banerjee, learned counsel appearing for the petitioner through virtual mode, has challenged the disciplinary proceedings on various counts. He submits that till date subsistence allowance has not been paid to the petitioner in accordance with law. He submits that the period of suspension has already covered more than six months. Hence, 75% of the last drawn salary is payable to the petitioner as subsistence allowance.

Mr. Partha Sarathi Bhattacharya, learned senior counsel appearing through virtual mode for the respondent nos. 3 and 4, the college authority, on instructions, submits that the subsistence allowance has duly been paid to the petitioner. He further submits that 50% of the last drawn salary has already been paid by way of subsistence allowance. Learned senior counsel further submits that there are several records which are required to be produced

before this Court for complete adjudication of this writ petition.

Considering the rival contentions of the parties, it appears to this Court that during the period of suspension, a suspended employee is eligible to receive the subsistence allowance in accordance with law and since more than six months after suspension has already been elapsed in the instant case, the petitioner is eligible to receive **75%** of his last drawn salary as and by way of subsistence allowance.

In the premises, the college authority is directed to ascertain, after verification of its record, whether the petitioner has been paid with the subsistence allowance payable as on date to him strictly in accordance with law. If it is found that the subsistence allowance paid to the petitioner is less than what he is eligible in law, the college then immediately shall pay the subsistence allowance to the petitioner payable to him as on date in accordance with law with all arrear, if any and then shall continue to pay such subsistence allowance in accordance with law without any default.

The entire exercise as directed herein shall be carried out and completed by the respondent

no.3 positively within a period of **two weeks** from date.

In the event if it is found upon verification of records that the petitioner has been paid the subsistence allowance payable strictly in accordance with law to him then the college authority shall continue with such payment of subsistence allowance to the petitioner in accordance with law.

Save as above, there is no scope for any further interim order.

Affidavits are called for.

The respondents shall file affidavit-in-opposition to the writ petition on or before **September 30, 2024**. The petitioner shall file affidavit-in-reply on or before **November 11, 2024**.

After completion of the aforesaid period, the parties shall be at liberty to mention this writ petition for inclusion in the list before the next available Circuit Bench then, subject to its convenience and upon notice to each other.

As submitted by the learned senior counsel appearing for the college authority and learned Additional Advocate General appearing for the North Bengal University that the petitioner has not been cooperating in proceeding with the

disciplinary proceeding and on several occasions, the petitioner remained absent in attending the proceeding, this Court directs the petitioner to participate in the disciplinary proceeding at every stage upon at least **seven days** advance notice to be served on him by the disciplinary authority, without prejudice to his rights and contentions in this writ petition. There shall be no unnecessary adjournment.

It is once again clarified that, participation by the petitioner in the inquiry/disciplinary proceeding shall not amount to waiver of any of his challenges in this writ petition.

**(Aniruddha Roy, J.)**