

(2012) 09 CAL CK 0013

Calcutta High Court

Case No: M.A.T. No. 802 of 2012 with C.A.N. No. 4949 of 2012

Dr. Uday Shankar Chakrabarty

APPELLANT

Vs

The State of West Bengal and
Others

RESPONDENT

Date of Decision: Sept. 3, 2012

Citation: (2013) 1 CALLT 352 : (2013) 3 CHN 114

Hon'ble Judges: Tarun Kumar Das, J; Pranab Kumar Chattopadhyay, J

Bench: Division Bench

Advocate: Ekramul Bari, Mr. Syed Mansur Ali and Mr. Bikash Kr. Mukherjee, for the Appellant; Tapan Kr. Mukherjee and Mr. Bikash Kr. Mukherjee for the State, for the Respondent

Final Decision: Allowed

Judgement

In Re: C.A.N. No. 4949 of 2012

1. This application has been filed in connection with the appeal preferred from the judgment and order dated 16th April, 2012 whereby and whereunder a Learned Judge of this Court dismissed the writ petition rejecting the claim of the incremental benefits of the writ petitioner for acquisition of Ph.D. degree. The appellant/petitioner claimed incremental benefits for acquiring Ph.D. degree which was ultimately denied on the ground that the convocation was held on 21st June, 2006 whereas the cut-off date, according to the Circular dated 5th January, 2012, was extended upto 18th August, 2005.

2. For improving the qualifications by acquisition of Ph.D. degree in the relevant subject, a candidate is entitled to get two additional increments from the date of convocation on which such degree was awarded.

3. The benefit in terms of Rule 12(5) under ROPA 1998 was extended up to 18th August, 2005 as a cut-off date.

4. In the present case, undisputedly the convocation was held on 21st June, 2006, i.e. after the cut-off date in terms of the Government Order dated 5th January, 2032.

5. A Learned Judge of this Court while deciding the writ petition being W.P. 4532 (W) 2012 on 4th July, 2012 passed an order quashing the ban imposed on the grant of incremental benefits to the teachers acquiring Ph.D. degree after 18th August, 2005 by quashing the order dated 5th January, 2012.

6. The relevant extracts from the judgment and order dated 4th July, 2012 passed by a Learned Judge of this Court in W.P. 4532 (W) of 2012 are set out hereunder:

Thus, by following the principle laid down by the Punjab & Haryana High Court in the said decision, this Court has no hesitation to hold that the classification which was been made by the Government between the teachers, acquiring Ph.D. Degree after 18th August, 2005 as also arbitrary and irrational inasmuch as, such classification has no nexus with the object to be achieved. As such, the Government Order dated 5th January, 2012 whereby ban was imposed on the grant of incremental benefits to the teachers acquiring Ph.D. Degree after 18th August, 2005 cannot be retained on record. The said Government order dated 5th January, 2012 is, thus quashed.

7. We have been informed that the aforesaid directions passed by the Learned Single Judge in the W.P. No. 4532 (W) 2012 has been complied with by the State Government and no appeal has been preferred from the said judgment and order dated 4th July, 2012. Therefore, the judgement and order dated 4th July, 2012 passed in W.P. 4532 (W) 2012 has become final.

8. In the aforesaid circumstances, the appellant/petitioner herein is also entitled to enjoy the benefit of two incremental benefits on acquiring Ph.D. degree even though convocation was held for conferring the degree after the, cut off date i.e. 18th August, 2006.

9. The respondent authorities are, therefore, directed to grant two additional increments to the appellant/petitioner for acquiring Ph.D. degree in the relevant subject with effect from the date when such Ph.D. degree was awarded in the convocation held on 21st June, 2006.

10. The aforesaid financial benefits should be made available to the appellant/petitioner within a period of four weeks from the date of communication of this order.

11. With the aforesaid directions, we set aside the impugned judgement and order under appeal passed by the learned Single Judge and dispose of both the application as well as the appeal upon treating the said appeal as on day's list. In the facts of the present case, there will, however, be no order as to costs.

Let xerox plain copy of this order duly countersigned by the Assistant Registrar (Court) be given to the learned the respective parties on the usual undertaking.