

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

THE HON'BLE SAYEED AHMED BABA, OFFICIATING CHAIRPERSON AND ADMINISTRATIVE MEMBER,

Case No. – OA 234 of 2018

SHYAMAL CHAKRABORTY & OTHERS - Vs - THE STATE OF WEST BENGAL & OTHERS.

Serial No. and
Date of order

12
12.07.2023

For the Applicants : Mr.Manujendra Narayan Roy
Advocate

For the Respondent No. 1 & 2 : Mr.Goutam Pathak Banerjee
Advocate

For Respondent No. 3 : Mr.S.N.Ray
Advocate

For the Respondent No. 5 : Mrs.S.Agarwal
Advocate

For the Principal Accountant General (A&E) West Bengal : Mr.B.Mitra
(Departmental Representative)

The matter is taken up by the Single Bench pursuant to the order contained in the Notification No. 638-WBAT/2J-15/2016 (Pt.-II) dated 23rd November, 2022 issued in exercise of the powers conferred under Section 5 (6) of the Administrative Tribunals Act, 1985.

On consent of the learned counsels for the contesting parties, the case is taken up for consideration sitting singly.

The prayer in this application is for a direction to the State respondent to pay the applicants their arrear dues in terms of Memo. 574- TET (Poly)/5P-1/2010 dated 13.09.2010 particularly in terms of clause 2(a)(xi) of the same Memorandum.

The amended prayer also includes a prayer for setting aside the Memo. dated 28.11.2016.

The applicants are retired Pharmacy Teachers of pharmacy colleges administered by the Department of Health and Family Welfare

under the Government of West Bengal situated at Jalpaiguri, Kalyani and Burdwan. In short, although AICTE pay scale was allowed to other Pharmacy Teachers employed in different Government Polytechnic Colleges teaching Pharmacy, but the same was not allowed to the applicants.

Mr. Roy, learned counsel refers to memo No.HF/o/MA/4087/5P-06/08 dated 17.11.2008 appearing at page 9 of the supplementary affidavit which appears to be a correspondence from the Joint Secretary to the Government of West Bengal to the Director of Health Services, West Bengal. The relevant paragraph of this correspondence is as follows :

“The undersigned is directed by order of the Governor to say that the Governor is pleased to agree to the extension of the benefit of Career Advancement to the Pharmacy Teachers working in the three Institutes of Pharmacy under this Health & Family Welfare Department as per the AICTE norms under the same terms & conditions as are applicable to the Teachers of Polytechnics provided 8 years, 16 years etc. are counted from 06/08/1997 and not from the date of joining prior to 06/08/1997.

2. This is issued under due concurrence of the Finance Department vide their U.O. No.2596 Group-P(Pay) dated 21.10.2008.”

Responding to Mr. Roy’s submission, Mr. Banerjee, learned counsel refers to a correspondence No. 574-TET(Poly)/5P-1/2010 dated 13.09.2010 from the Joint Secretary to the Director of Technical Education & Training, West Bengal. Attention is, in particular, drawn to the paragraph (xiv) which is as follows:

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“All advancements to higher grade pays in various cadres will be effected subject to completion of two AICTE approved refresher programmes of not less than two weeks duration each and two one-week each TEQUIP sponsored programmes.”

Mr. Banerjee submits that to be eligible for such AICTE pay scale, the applicants were required to have completed two AICTE-approved refresher programmes of not less than two weeks duration. The applicants in this application have not completed the above refresher course. Therefore, they are not entitled.

Mr. Banerjee, learned counsel for the respondent further submits that since it relates to policy matter and various points of law are involved, therefore, the same be heard by a Bench comprising two Members (one Judicial and one Administrative). This submission is also supported by the learned advocates from all the sides.

Let the matter come up before a Bench comprising two members (Judicial and Administrative) under the heading “Hearing” on 21.12.2023, with liberty to mention, if a Division Bench is available by then.

(SAYEED AHMED BABA)
OFFICIATING CHAIRPERSON AND MEMBER (A)

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