

ORDER SHEET**WEST BENGAL ADMINISTRATIVE TRIBUNAL****Present-**

**The Hon'ble Justice Ranjit Kumar Bag
& The Hon'ble Subesh Kumar Das**

Case No –OA 1096 OF 2012

Subir Kumar Pal & Ors. Vs The State of West Bengal & Ors.

| Serial No. and Date of order. 1 | Order of the Tribunal with signature 2 | Office action with date and dated signature of parties when necessary 3 |
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| <p>23 30.07.2018</p> | <p>For the Applicants : Mr. M.N. Roy, Mr. G. Halder, Learned Advocates.</p> <p>For the State respondents : Mr. R.A. Chowdhury, Learned Advocate.</p> <p>The applicants have prayed for direction upon the respondents to fix pay scale of the applicants at par with Graduate Laboratory Instructors/Demonstrators posted in non-Governmental Colleges w.e.f. August 1, 1987.</p> <p>The applicants have been working as Laboratory Assistants in Kalyani Engineering College in the district of Nadia. The applicant No. 3 joined in the said post in the year 1996, while applicant No. 2 joined in the said post in 1997 and the applicant No. 1 joined in the said post in 2000. The contention of the applicants is that the Laboratory Assistants working in non-Governmental Colleges got the benefit of higher pay scales by virtue of their qualifications as Graduate. The said Graduate Laboratory Assistants got their designations changed to Graduate Laboratory Instructors by virtue of the order passed by the Hon'ble High Court at Calcutta and affirmed by the Apex Court. Ultimately, the said Graduate Laboratory Instructors working in non-Governmental Colleges got higher revised pay scales on the basis of Memorandum No. 931-Edn(CS)/5S-16/89 dated December 26, 1994 issued by the Deputy Secretary to the Government of West Bengal, Higher Education Department. The present applicants having Bachelors' Degree in Science from recognized University were posted as Laboratory Assistant in Government Engineering College. These applicants have prayed for parity of scale of</p> | |

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pay with Graduate Laboratory Instructors of non-Governmental Colleges on the ground that they have same qualifications at the time of their initial appointment and they have been performing same duties.

Mr. M.N. Ray, Learned Counsel for the applicants contends that the applicants have been performing the same duty which is performed by the Graduate Laboratory Instructors of non-Governmental Colleges and as such they should be treated equally with Graduate Laboratory Instructors within the ambit of Article 14 of the Constitution of India. On the other hand, Mr. R.A. Chowdhury, Learned Counsel representing the State respondents has referred to the reply submitted by the State respondents and submitted that the applicants being posted in Government Engineering College are Government employees, whereas Graduate Laboratory Instructors working in non-Government and Sponsored Degree Colleges cannot be considered as Government employees and as such they do not stand on the equal footing for getting protection of the Article 14 of the Constitution of India.

The materials are not placed before us to decide whether the Laboratory Assistants of Government Engineering Colleges are performing the same duty as Graduate Laboratory Instructors of non-Governmental Colleges. Nor the parties have furnished information before us about the prescribed qualification in the recruitment rules for recruitment to the post of Graduate Laboratory Instructor working in non-Governmental Colleges. However, from the materials on record we find that the applicants are Government employees and their service conditions are governed by the rules framed under Article 309 of the Constitution of India, whereas the service conditions of Graduate Laboratory Instructors working in non-Government Colleges are not known to us, as the same are not placed before us for making comparison. The protection guaranteed under Article 14 of the Constitution of India can be made available to the employees who are equal, but the same benefit cannot be claimed by the employees who are

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unequals. There is always scope for reasonable classification among the employees depending on qualifications at the time of initial recruitment, duties and responsibilities performed by them and conditions of service by which they are governed within the ambit of Article 14 of the Constitution of India.

In view of our above findings, we would like to hold that the entitlement of the applicants to get the benefit of pay scale applicable to Graduate Laboratory Instructors may be considered by the Principal Secretary of the concerned Department in accordance with law. Accordingly, respondent No. 4, Principal Secretary, Higher Education Department (Technical Branch), Government of West Bengal is directed to consider whether the applicants are entitled to get the benefit of pay scales applicable to Graduate Laboratory Instructors working in non-Governmental Colleges by passing a reasoned order within a period of 16 weeks from the date of communication of the order and to intimate the result of the same to the applicants within 2 weeks thereafter.

With the above direction, the application is disposed of.

(Dr. S.K. Das)
Member (A)

(R.K. Bag)
Member (J)

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