

Sharadendu Bhushan

Vs

Nagpur University, Nagpur and Others

Civil Appeal No. 3803 of 1986 in Special Leave Petition No. 10901 of 1985

(A. P. Sen, B. C. Ray JJ)

29.09.1986

ORDER

1. We find no basis for the finding recorded by the High Court that the University did not commit any error in denying to the appellant the benefit of the grade of the Lecturer (Senior Scale) under the scheme framed by the University Grants Commission and accepted by the Central Government by not taking into account the experience of University teaching in colleges affiliated to the Calcutta University. The High Court failed to appreciate that while framing the criteria for the placement in senior scale, the University itself used the words "Experience of University teaching up to degree classes for a period of five years". The High Court obviously fell into an error in assuming that the length of service within the University was the basis. We find it difficult to subscribe to this view on the criteria framed by the University for the purpose of Lecturer (Senior Scale) which reads :

A Lecturer shall hold at least a Master's Degree not lower than a Second Class with an experience of University teaching up to Degree classes for a period of not less than five years. Provided that there shall be an equitable distribution of such posts in different subjects.

2. The contention advanced by learned counsel for the University based upon the averment in para 2 of the counter-affidavit that in view of the clarification made by the Additional Director of Education by his letter dated November 15, 1965, the appellant was not entitled to the benefit of the service with a college affiliated to the Calcutta University, cannot be accepted. It appears from para 2 of the counter-affidavit that the clarificatory letter of the Additional Director of Education was with regard to determination of seniority. That was not the question before the High Court and merely because there was a break of two years service between the date of resignation of the appellant from a college affiliated to the Calcutta University and the date of his employment as a Lecturer in M.M. Science College affiliated to the Nagpur University, could not be regarded as continuous service for purposes of determining his seniority was no ground for denial of the higher grade. In terms of the criterion laid down by the University itself, a Teacher is entitled to the benefit of the higher grade if he has the teaching experience of not less than five years. The emphasis in the circular is on the experience gained by the Teacher while in the employment of a University and not on the continuity of the service.

3. In the premises, we allow the appeal with costs. The judgment and order of the High Court are set aside. We order the Nagpur University to issue a direction to the M.M. Science College, Nagpur to accord to the appellant the benefit of the higher grade of Lecturer (Senior Scale) to which he is entitled, taking into account the period of his service in colleges affiliated to the Calcutta University.

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