

Court No. 24

**30.09.2021**

(Item No. 6)

(AB)

**W.P.A 2119 of 2011  
(Via Video Conference)**

Santanu Ghosh Dastidar

vs

The State of West Bengal & Ors.

Mr. Syed Mansur Ali

Mr. Sk. Imtiaj Uddin

..... For the petitioner

Ms. Supriya Dubey

Ms. Deblina Chakraborty

..... for NBU

Mr. Anirban Ray, Ld. G.P.

Mr. Raja Saha

Mr. Sk. Md. Masud

..... for the State

The petitioner is aggrieved by the reasoned order dated 22<sup>nd</sup> December, 2010 passed by the Director of Public Instruction whereby the prayer of the petitioner for revising his scale of pay has been refused.

The petitioner was appointed on 29<sup>th</sup> March, 1995 on temporary basis in the Computer Science department and thereafter by a Governing Body resolution adopted in the meeting held on 1<sup>st</sup> October, 2001 the College appointed the petitioner in the sanctioned post of Programmer for Computer Science department.

The Higher Education department (College Section) Branch converted the vacant post of Lecturer in Bengali into the post of Computer Programmer in the department of Computer Science in the Ananda Chandra College, Jalpaiguri.

The post facto approval to the creation of the post of Programmer in Computer Science and regularization of the appointment of the petitioner to that post was made on 12<sup>th</sup> June, 2007. The pay scale of the petitioner in the post of Programmer in Computer Science was mentioned in the post facto letter of approval dated 12<sup>th</sup> June, 2007. The said order was issued with the concurrence of the Finance Department.

The petitioner by a letter written in the year 2010 drew the attention of the Director of Public Instruction that he was holding classes and he was imparting education in Computer Science. The petitioner thereafter requested the authority to treat his post as a teaching post and to fix his scale of pay equivalent to a teaching post. The prayer of the petitioner was refused.

In the order of rejection it was mentioned that as per the University Grants Commission one post of Laboratory Assistant/Technical Assistant/ Programmer has been introduced. The staff pattern indicates that the Laboratory Assistant/Technical Assistant/ Programmer are equivalent post, but in no way is a teaching post. The post of programmer was a non-teaching post in the category of 'Assistant'.

It has further been mentioned that the post of Programmer of Computer Science in the scale of pay

has been created in lieu of post of Lecturer in Bengali but in no way the post of Programmer is a teaching post. The job of the petitioner involves assisting the teaching procedures. The same does not confer any right upon the petitioner to be a teacher or equivalent to a teacher.

The petitioner stresses on the fact that the College authority permitted him to take classes and impart education to the students.

The learned advocate representing the State respondents submits that starting from the letter of conversion to the letter of appointment and the post facto approval to the creation of the post nowhere suggests that the post of Programmer is a teaching post.

It is the specific case of the State respondents that the post in question is equivalent to an assistant but is not a teaching post. The petitioner is not required to teach any student. It has been submitted that if the College authority permits the petitioner to teach any student the Government ought not to take the financial burden for the same.

I have heard the submission made on behalf of the parties.

The documents annexed to the writ petition do not suggest that the post in question is a teaching post. There is no permission or direction upon the

petitioner to teach or impart education to any of the students of the College. The concerned authority in the education Directorate is of the firm opinion that the post in question does not involve any teaching but requires assisting the teaching procedures. The same cannot be equated as that of a teacher. The petitioner has not been able to produce any document to show that he was directed by the government to impart education to the students.

In view of the above, there is no infirmity in the reasoned order impugned in the instant writ petition.

The writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

**(Amrita Sinha, J.)**