

**GOVERNMENT OF WEST BENGAL
HIGHER EDUCATION DEPARTMENT
BIKASH BHABAN, SALT LAKE CITY,
KOLKATA-700091**

No. 04/ILC/RO/2013

Date: 02.05.2013

REASONED ORDER

W.P. No. 10163 (W) of 2012

W.P. No. 9170 (W) of 2012

W.P. No. 14686 (W) of 2012

Ref: Order dated 14.03.2012 passed by Hon'ble Justice Prasenjit Mandal of Calcutta High Court.

Hon'ble Justice Prasenjit Mandal while dealing the aforesaid three cases has directed interalia as follows:

“Upon hearing of all the parties it is ordered that it will be fit and proper that the State Government should be given an opportunity to take appropriate steps for removing the discrepancies as pointed out by the Writ Petitioners in their respective points within 8 weeks from date.....The State Government is also directed to communicate its decision before that date. Anyway, in order to avoid any further friction and/or conflict it is recorded that before taking decision, the State Government shall hear out the decision, the State Government shall hear out the matters in presence of all the parties to the writ matters. For the purpose of arriving at a decision the State Government may also form a committee.....”

In compliance of the aforesaid order, a hearing has been conducted in the Chamber of the Secretary, H.E. Department in presence of the petitioners as well as the University authority and other parties whose interest would interalia be affected in deciding this case, on 12.04.2013 at 12.00 noon. All parties have been given sufficient opportunity to represent their cases before the undersigned by their oral as well as written submissions. During scrutiny of the papers it is observed that the Petitioners were praying to rescind and withdraw the revised scale of pay for Technical Assistant Grade-II as recommended

by the Pay Committee 2008, implemented by this Department and adopted by the Calcutta University. the Petitioners have further prayed to rescind, cancel and withdraw the revised Memo No. 9176-F(P) dated 15.09.2010 and also to restrain the State Government as well as other Respondents from disbursing the payment of enhanced salary to the Technical Assistants, Grade-II on the basis of revised scale of pay stated herein above.

During hearing it is observed that the Petitioners are all employees of Calcutta University and working in the posts of Junior Assistant, Junior Technical Assistant, Junior Superintendent, Junior Plumber and some other similar categories. It is further observed that the educational qualification required for entry in all these posts are pass in Higher Secondary Examination. However, no technical qualifications are required for these posts. On the other hand, the required educational qualifications for entry in the post of Technical Assistant Grade-II are Graduation, having technical degree/diploma/certificate in their respective fields. It is also observed that the job profiles of the petitioners are clerical while on the other hand, the Technical Assistants Grade-II are entrusted with the job of managing University Laboratory, to conduct practical classes in the laboratories, to do major maintenance work of the machines and laboratory equipments etc.

It has been submitted by the Petitioners during hearing that by reasons of enhancing the pay scale of Technical Assistant Grade-II by virtue of this aforesaid order, the promotional scope of the petitioners has got reduced and as a result, they would sustain financial loss. Hence, they are praying for rescission and cancellation of order No. 9176-F (P) dated 15.09.2010.

During further scrutiny of relevant documents, it is observed that this Order dated 15.09.2010 has been issued by the Finance Department, Government of west Bengal on the recommendation of the Pay Committee constituted by the Finance Department in the year 2008. The Pay Committee was constituted by Resolution No. 8349-F dated 10.11.2008 by the Finance department under the Chairmanship of Prof. Amaljyoti Sengupta and comprising Shri Rajat Kumar Bandopadhyay and Shri Jayanta Kumar Dutta Gupta as members, with a view to recommend an overall revision of pay and allowances of various employees of Government undertakings including the employees of State aided

Universities, and Higher Secondary Councils, etc., the Committee submitted their report to the State Government in February 2010. Various recommendations were made by the said Committee including the enhancement of pay scale of Technical Assistant Grade-II employed in various State aided University. On the basis of the recommendation of the pay Committee as aforesaid, the instant Order No. 9176-F (P) dated 15.09.2010 was issued by the Finance Department itself. The Higher Education Department has only to implement the said order because as per the existing Rules of Business of the State Government, the decision of the Finance Department in fixation and revision of pay scale of employees paid out of the State Exchequer is final.

On scrutiny of the order No. 9176-F (P) dated 15.09.2010, it is further observed that there are nine categories of posts whose pay scales were revised as per recommendations of the Pay Committee. These are: Technical Assistant Grade-II, Technical Assistant Grade-I, Superintendent Technical Assistant, Sub-Assistant Engineer, Grade-III, Sub-Assistant Engineer Grade-II, Sub-Assistant Engineer Grade-I, Assistant Librarian Grade-II, Assistant Librarian Grade-I, Superintendent Library Service. The Petitioners at present are only challenging the revision of Pay Scale of Technical Assistant Grade-II, but the cancellation of this instant order would affect the interest of all employees under all the above-mentioned categories who are working at present in various State aided Universities, and who were not impleaded as party in these Writ Petitions. The said order of the Finance Department has been implemented vide this Department order No. 644 (12)-Edn (U) dated 16.11.2010. It is pertinent to mention that various representations were made before the Pay Committee regarding revision of pay scales of various categories of employees of those institutions and the Committee had examined these aspects including the pay structures of similar kind of employees working in several Central Government undertakings imparting similar kind of assignment, and had accordingly, recommended the State Government the revised pay structures of all those employees which was resulted the aforesaid Order No. 9176-F (P) dated 15.09.2010. The Committee has also took personal hearing in individual cases of all kind of employees including the similarly

placed employees like the petitioners and accordingly revised pay structures of all such employees including that of the petitioners.

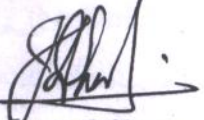
Regarding the question of promotional opportunities of the petitioners which was raised by them during hearing, it may be mentioned here that there are structured guidelines in this regard issued by the Finance Department Government of West Bengal vide No. 10570-F (P) dated 25.11.2009 and on scrutiny of the said order it has been primarily observed that there is no anomaly in fixation of revised pay scale of the petitioners as well as of the Technical Assistants Grade-II of State aided Universities. The academic qualification for entry into the service of a Technical Assistant Grade-II and their job profile are quite higher than the Petitioners and it is pertinently clear that the pay scale of Technical Assistant Grade-II would be higher than that of the petitioners.

Considering that the educational qualifications as well as the job profiles of the Technical Assistant Grade-II are different from those of the Petitioners, and considering that the work of the Technical Assistant Grade-II is technical in nature and not general or clerical, raising the dispute relating to pay structure more than two years after the pay structure was duly arrived at and notified, the petitioners claim does not seem to have merit.

There appears to be no grounds for re-opening this matter of pay fixation at this stage. This case is decided accordingly in solemn compliance of the Hon'ble Court's Order.

SD/- Shri Vivek Kumar
Secretary, H. E. Department

1. Vice- Chancellor, Calcutta University, 87/1, College Street, Kolkata-700074, for information,
2. Pro Vice Chancellor, Business, Calcutta University, 87/1, College Street, Kolkata-700074, for information,
3. Secretary, Finance Department, Govt. of West Bengal, Writers Building, Kolkata-700001,
4. Additional Secretary (University) Branch, H. E. Department, Bikash Bhaban, Salt Lake, Kolkata-700091,
5. P.S. to Hon'ble MIC, H.E. Department, Bikash Bhaban, Salt Lake, Kolkata-700091,
6. Shri Amit Das, S/O Lt. Khagen Chandra Das, Vill: Gokulpur, P.O. Kantaganj, Dist: Nadia, with request to attend the hearing either personally or by another petitioner, representing all the petitioners in W. P. No. 14686 (W) of 2012,
7. Smt. Kalyani Gangopadhyay, 411, Kailashnagar, P.O Bandel, Dist: Hoogly, PIN-712123, with request to attend the hearing either personally or by another petitioner, representing all the petitioners in W. P. No. 9170 (W) of 2012,
8. Atish Barman, Calcutta University, with request to attend the hearing either personally or by another petitioner, representing all the petitioners in W. P. No. 10163 (W) of 2012,
9. The Secretary, University Technical Assistant Association, 13, S.R.C. Sarani, Birati, Kolkata-700051,
10. Md. Mokaram Hossain, Advocate, Bar Association Room No. 12, Calcutta High Court, Kolkata-700001,
- ✓ 11. Shri Kamalesh Bhattacharya, Advocate, Ld. Additional Government Pleader, Calcutta High Court, Kolkata-700001,
12. Shri Biswaroop Bhattacharya, Advocate, Calcutta High Court, Kolkata-700001,
13. Sulip Kumar Pal, Assistant Librarian, Hazra Law College, 51/1, Hazra Road, Kolkata-700019 for representing Library Professionals, University of Calcutta
14. Indrajit Guha, Tech. Assistant Grade-I, Institute of Radio Physics & Electronics (C.U), 92 A.P.C Road, Kolkata-700009.


Law Officer