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24-12-2020

Ct. 12

MAT 574 of 2020
With
CAN 1 of 2020
With
CAN 2 of 2020

Vishwa Bharati
Versus
Sruti Bandyopadhyay

(Through Video Conference)

Mr. Soumya Majumdar, Adv.
Mr. Victor Chatterjee, Adv.
...for the appellant

Mr. Jaydip Kar, Sr. Adv.
Mr. Puspall Chakraborty, Adv.
Mr. Subhajit Das, Adv.
...for the respondent/writ petitioner

Mr. Anil Kr. Gupta, Adv.
...for the respondent 7

By consent of the parties, the appeal and the applications are treated as on day's list and disposed of by this common order.

The appeal is arising out of an order dated 3rd August, 2020 in a writ petition by a Professor of Manipuri Dance of the Viswa Bharati University, namely, Professor (Dr.) Shrutl Bandopadhyay inter alia, challenging the order dated 12th June, 2020 issued by the Registrar (Acting), Viswa Bharati, whereby the writ petitioner was directed to return the excess payment made to her from the date of her joining i.e. April 2014.

The learned Single Judge, upon consideration of the submissions made on behalf of the parties, restrained the University from recovering any amount in terms of the impugned memo till the disposal of the writ petition. The leaned Single Judge was of prima

facie view, that a person after being allowed to work in a post, his/her salary could not be reduced and cannot be directed to return any amount for the period she performed her duties.

The learned Single Judge, however, observed that, without prejudice to the rights and contentions of the parties, the writ petitioner will be allowed to enjoy the present mode of salary but shall not be entitled to claim any equity.

On 9th December, 2020 at the time of hearing the appeal, on the basis of the submission made by Mr. Jaydip Kar, learned Senior Counsel representing the writ petitioner, that the writ petitioner was not receiving any salary, we directed the University to pay the admissible dues of the writ petitioner including monthly salary without prejudice to the rights and contentions of the parties. On the basis of his submissions made on 16th December, 2020 that the admissible dues including monthly salaries have not been released, we called for a report from the Registrar, Viswa Bharati for non-compliance of the order dated 9th December, 2020. On 21st December, 2020 we extended the time to file the report till Wednesday i.e. 23rd December, 2020. Yesterday, a report has been filed by the Registrar justifying non-compliance of our previous order dated 9th December, 2020.

While considering the report, Mr. Saumya Majumdar, learned Counsel appearing on behalf of the appellant has submitted that the reliefs, as orally claimed on behalf of the appellant, may be beyond the scope of the writ petition. The impugned order does not, in any way, fetter the rights of the University to decide the salary payable to the writ petitioner in accordance with the Rules of University. It is submitted that, in the event the University is correct in his contention,

the petitioner would be receiving a salary of Rs.2,30,958/- as opposed to a sum of Rs.2,52,018.

We are, prima facie, of the opinion that the view taken by the learned Single Judge with regard to the recovery of arrear salary is correct and needs be considered only after exchange of affidavits as refusal to pass such ad-interim order would cause serious irreparable injury and prejudice to the writ petitioner than the party would have under the facts and circumstances.

However, with regard to the payment of salaries, we direct the University to pay a sum of Rs.2,30,258/- and the writ petitioner to accept the same without prejudice to the right and contention of the writ petitioner in the writ proceeding. The differential amount i.e. Rs.21,060/- since June 2020 shall be deposited in a separate bank account to be opened in the name of the University with any nationalised bank within seven day from date and the University shall continue to deposit such differential amount towards alleged monthly salary payable to the writ petitioner till the disposal of the writ petition.

There cannot be any denial of fact that Manipuri Dance is the integral part of the dance drama conceived by Tagore and it is in the interest of the University that a Professor of Manipuri Dance is not shabbily treated. It would not be in the best interest of the University, we hope and trust that the Vice-Chancellor of the University shall look into the matter and resolve the issue keeping in mind the academic excellence to which Tagore has thrived throughout his life and we expect that this Institution ensures preservation of the "Philosophy of Tagore" in all fields and excel in all directions. It is a pride not only of West Bengal but India.

We have been informed by the learned Counsel for the parties that affidavits are complete. We request the learned Single Judge to dispose of the matter as expeditiously as possible subject to the convenience of the Bench.

The arrear salary from June, 2020 shall be paid by the University within 31st December, 2020 without prejudice to their rights and contentions of the University in accordance with law.

The appeal and the connected applications are accordingly, disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Saugata Bhattacharyya, J.)

(Soumen Sen, J.)