

Filed on : 12.04.2019
Order reserved on : 04.07.2019
Order Pronounced/ : 11.07.2019
Issued on



RASHTRASANT TUKADOJI MAHARAJ NAGPUR UNIVERSITY, NAGPUR

BEFORE THE GRIEVANCES COMMITTEE

(Presided over by Shri Arvind J. Rohee, Former District Judge)

Grievance Petition No. 5/2019

Dr. Ashish Suresh Kaithwas,
Flat No. 102, Sainath Apartment,
Santra Market, Nagpur-440018 - Grievance Petitioner

Versus

1. Lokmanya Tilak Jankalyan
Shikshan Sanstha through its
President & Secretary
2. Principal,
Priyadarshini Lokmanya Tilak
Institute of Management
Studies & Research, Nagpur
(PLTIMSR) - Non-applicants

ORDER

(Delivered on 11.07.2019)

1. The Applicant approached this Grievances Committee under Section 9 (1) of the Maharashtra Public Universities Act, 2016 alleging that he has not been paid salary according to his entitlement and as notified in his appointment letter for the post of Assistant Professor and was paid less amount.

*Received
Rashtrasant Tukadoji Maharaj Nagpur University*

*Received
Dr. Arvind J. Rohee
11/07/2019
[Signature]*

2. The Applicant joined as Assistant Professor in Bachelor of Business Administration on 10.08.2018 in Priyadarshini Lokmanya Tilak Institute of Management Studies and Research run by Lokmanya Tilak Jankalyan Sanstha, Nagpur. As per his appointment letter dated 10.08.2018, it is provided that he will draw Basic Pay of Rs.15,600/- per month in the Pay Band of Rs.15,600-31,900 with AGP of Rs.6,000 + usual allowances as permissible by Sanstha from time to time. According to the Applicant he was not paid full salary nor admissible Dearness Allowance is fully released. Hence this Grievance Petition for non-payment of salary according to Pay Band of Assistant Professor.

3. On notice the Non-applicant vide reply dated 19.06.2019 resisted the claim by stating that the Institute has been suffering from financial crunch and as the Institute could get only about 50% quota of students in Bachelor of Business Administration course against the intake of 120, the Sanstha entered in mutual understanding with the Applicant that he will be regularly paid an amount of Rs.15,000/- per month only after adjusting mandatory deductions towards Provident Fund and Profession Tax and the difference of salary as per the Scale as stipulated in his appointment order will be paid to him as and when financial position of Sanstha is improved. Since the Applicant agreed to this arrangement, the Grievance application is liable to be rejected.

4. On 4th July 2019 when the matter is called out for final hearing, heard the Grievance Petitioner and the reply arguments of Dr. S.R. Verma, Principal of the College. The Grievances Committee has carefully perused the case record.

MR

5. The only point that arises for consideration of the Grievances Committee is whether the applicant is entitled to the relief sought.

6. It is obvious from record that the Institute is run on no grant basis. In other words the Management has to run the College by raising its own funds to meet the expenses towards salary of the teaching and non-teaching staff and other administrative expenses. It is submitted that on account of financial crisis it is not possible for the Institute to pay full salary to the Applicant. However, as stated earlier this cannot be the reason for non-payment of salary as per scale mentioned in the appointment order. It is stated on behalf of the Non-applicant that the Applicant is not entitled to the Dearness Allowance as applicable to the employees of colleges receiving the salary grant. However, this is not correct and since the appointment of the Applicant is on regular basis and not on contractual term or fixed remuneration he is entitled to the prescribed Basic Pay in Pay Band along with the Grade Pay and admissible Dearness Allowance. The Grievance of the Applicant is, therefore, genuine since on the appointment of the Applicant he has not been paid full salary, according to his entitlement.

7. Further in this respect it may be stated that Non-applicants are not justified in getting agreement from Applicant to work on less pay, since it will be opposed to the public policy. Hence it is not binding on the Applicant.

Today when the matter is before for pronouncement of Order, on behalf of the Non-applicant additional written statement is filed stating that the Applicant has not come with clean hands since he fraudulently obtained M.Com. and M.B.A. degrees in the same year, which is prohibited by

ASR

University Rules. As such it is stated that the Applicant was not eligible for the post of Assistant Professor. We have given conscious thought to the above submissions and also heard the Applicant on this point.

9. It may be true that the Applicant has obtained two degrees in one year. However, this fact should have been considered by the Management at the time of making selection of the Applicant. They have conceded to this fact and as such they are now estopped from contending that the Applicant has fraudulently obtained the degrees and is not eligible for the post of Assistant Professor. However, this fact is now irrelevant since the Applicant's services are already terminated while in probation. For this reason we simply reject the above submissions. Further the additional statement submitted today at the close of the matter can safely be said to be afterthought with malafide intention to avoid the payment of dues.

10. It is stated during the course of arguments that the services of the Applicant who is on probation has been terminated with effect from 10.04.2019 alleging that he is in habit of taking leave. The said order is challenged by the Applicant and the matter is pending for adjudication before the University and College Tribunal, Nagpur. It will be adjudicated in due course of time. Presently the Applicant is entitled to the full salary as per the appointment letter including the Dearness Allowance as admissible to other employees of colleges run on grant basis from 10.08.2018 to 30.04.2019.

11. (a) The Grievance application is, therefore, allowed. The Non-applicants are directed to settle the difference of salary due to Applicant and not released to him during the



period from 10.08.2018 to 30.04.2019 and pay the same to him, within a period of 2 months from the date of this Order.

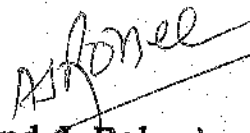
(b) The necessary office order to this effect be issued by the Non-applicants within the aforesaid period.

(c) It is clarified that in the event of breach of this Order by failing to maintain time limit prescribed for payment of difference in salary by the Non-applicants, the Applicant will be at liberty to take appropriate legal recourse against the Non-applicants.

(d) In the facts and circumstance of the case the Parties are, however, directed to bear their respective costs of this proceeding.

(e) The office is directed to forward authenticate copy of this Order to both the Parties at the earliest for taking appropriate steps in the matter.

Nagpur:
11th July, 2019


(Arvind J. Rohee)
Chairman,
Grievances Committee