

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5325 of 2017

(Arising out of SLP(C) No.15178 of 2015)

STATE OF WEST BENGAL & ORS.

Appellant(s)

VERSUS

D.N DE HOMEOPATHIC MEDICAL COLLEGE AND
HOSPITAL EMPLOYEES UNION

Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the parties.

The respondents are employees of D.N DE Homeopathic Medical College and Hospital. The D.N DE Homeopathic Medical College and Hospital (Taking Over of Management and Subsequent Acquisition) Act, 1983 enabled taking over of management and control of the Institution and also its acquisition. Accordingly vide Notification dated 22nd July, 1994, the Institution was acquired w.e.f. 1st August, 1994. Thereafter by Notification dated 6th April, 2001, D.N DE Homeopathic Medical College and Hospital (Absorption of Employees and Conditions of Services) Rules, 2001, regulating terms and conditions of absorption of persons employed in D.N DE Homeopathic Medical College and Hospital were framed.

The respondents approached the State Administrative

Tribunal with a grievance that for the period from 1982 to 1994 the employees will be entitled to service benefits at par with the employees of the State Government from the date of vesting i.e. 27th December, 1982. This plea has been upheld by the High Court.

Mr. Kalyan Banerjee, learned senior counsel appearing for the appellant-State, points out that Section 4(2)(iv) of the Act specifically provided that the employees of the Institution will become employees of the State Government and governed by the same terms and conditions as are admissible to the State Government employees from the date of vesting, until the terms and conditions are altered by Rules. Since the vesting took place on 1st August, 1994 even if the management and control was taken over earlier, the claim of the respondents at par with the service condition of the State Government was admissible only w.e.f. 1st August, 1994 i.e. the date of vesting.

On perusal of Section 4(2)(iv) of the 1983 Act, the Notification dated 22nd July, 1994 acquiring the Institution and conferring the status of State Government on the respondents and the 2001 Rules make it clear that the benefit of service conditions at par with the employees of the State Government is admissible to the respondents from 1st August, 1994.

Accordingly we allow this appeal in above terms and set aside the impugned order of the High Court.

Pending applications, if any, shall also stand disposed of.

.....J.
(ADARSH KUMAR GOEL)

.....J.
(UDAY UMESH LALIT)

New Delhi,
APRIL 17, 2017.

ITEM NO.51

COURT NO.13

SECTION XVI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 15178/2015

(Arising out of impugned final judgment and order dated 01/08/2014 in WPST No. 123/2007 passed by the High Court Of Calcutta)

STATE OF WEST BENGAL & ORS.

Petitioner(s)

VERSUS

D.N DE HOMEOPATHIC MEDICAL COLLEGE AND
HOSPITAL EMPLOYEES UNION

Respondent(s)

(With interim relief and office report)

Date : 17/04/2017 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Mr. Kalyan Banerjee, Sr. Adv.
Mr. Saurav Gupta, Adv.
Mr. Chanchal Kumar Ganguli, Adv.

For Respondent(s) Mr. Soumya Chakraborty, Sr. Adv.
Mr. Amales Roy, Adv.
Mr. Riddhi Bose, Adv.
Mr. Danish Zubair Khan, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

In terms of the signed order, the appeal is allowed.

(MAHABIR SINGH)
COURT MASTER

(VEENA KHERA)
COURT MASTER

(Signed order is placed on the file)