

10.08.2021
Court No. 19
Item no.05
CP

WPA 9614 of 2021

Sri Debasis Bandopadhyay

Vs.

The State of West Bengal & ors.

(via video conference)

Mr. Amal Kumar Mukherjee, Sr. Adv.

Mr. Subhrajit Saha

.....for the petitioner.

Mr. Swapan Kr. Datta, Ld. AGP

Mr. Tapas Kr. Mandal

.....for the State.

Mr. Dipak Kumar Mukherjee

Mr. Rajib Mukherjee

Ms. Shreyasi Bhaduri

....for the Municipality.

The petitioner was engaged as an Overseer in the Uttarpara-Kotrung Municipality on contractual basis. Thereafter, by an order dated April 13, 2000, issued by the Vice-Chairman, Uttarpara-Kotrung Municipality, the petitioner along with two others were appointed as a Sub-assistant Engineer of the department with effect from the date of joining. The scale of the petitioner was fixed at Rs.4500-150-5250-175-7000-200-8800-225-9700/-. The petitioner continued to work in the said post upto his date of retirement, i.e., February 28, 2021. The petitioner is aggrieved because the respondents have

not released the retirement benefits of the petitioner, namely, pension, gratuity, provident fund benefit from April 2001 to February, 2021, leave encashment benefit and increments from July, 2016 till February 2021 as also pay commission benefits.

The petitioner has relied on a decision of this court passed in another writ petition in case of a doctor who was similarly situated like the petitioner and was granted benefits as prayed for by the petitioner.

Records reveal that although the petitioner was appointed as a sub-assistant engineer, due to bona fide mistake and through inadvertence the said posts of sub-assistant engineers were not included in the staff pattern of the municipality. The appointments were, however, informed to the Director of Local Bodies. The petitioner along with the two other employees had already rendered more than 12 years service in the said post until they retired. Their salaries were paid. However, as no formal order of the Government had been received by the municipality, the financial benefits and also the retirement benefits could not be released.

The Vice Chairman of the Uttarpara-Kotrung Municipality by a letter dated November 26, 2012 intimated the issues to the Director of Local Bodies

and recommended the cases for approval. Several reminders were also sent thereafter.

The Director of Local Bodes have not taken any steps with regard to the approval of the three posts of sub-assistant engineers for inclusion in the staff pattern of the concerned municipality with retrospective effect. Aggrieved, the petitioner has approached this court.

The writ petition is disposed of with a direction upon the Director of Local Bodies, Government of West Bengal, to treat the writ petition as a representation and dispose of the same upon hearing the petitioner as also the competent authority of the municipality and pass a reasoned order. The reasoned order shall be communicated to all concerned.

The Director of Local Bodies shall specifically take into consideration whether one Benoy Bhusan Chakraborty, doctor and Debdas Saha were similarly situated like the petitioner. They have been granted all the retirement benefits pursuant to the directions of this court. If it is found by the Director of Local Bodies that Benoy Bhusan Chakraborty and Debdas Saha were also appointed against posts which were not included in the staff pattern but retirement benefits were disbursed to them, then similar benefit should be given to the petitioner. In case the

petitioner is found not suitable and not similarly situated with the persons mentioned hereinabove, then the reasons should be disclosed in the order. It is also noted by the court that the petitioner continued in service without any objection from the government and his salary was disbursed.

The entire exercise should be completed within a period of six weeks from the date of communication of this order.

With the above observations, this writ petition is disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)