

S/L 3
06.12.2021
Court. No. 19
GB

WPA 13034 of 2021

Krishna Kayal
Vs.
The State of West Bengal & Ors.

Mr. Kamal Kanta Kar.

...for the Petitioner.

*Mr. Pinaki Dhole,
Ms. Kakali Samajpati.*

...for the State.

Mr. Sugata Shankar Roy.

...for the Respondent Nos. 2 & 3.

Affidavit-of-service filed in Court today be kept with the record.

The learned advocate for the respondent nos.2 and 3 have raised a question of entertainability of the writ petition, in view of suppression of material facts by the petitioner.

It has been submitted by the learned advocate for the petitioner that disciplinary proceedings were held against the petitioner twice, once in 2005 and another in 2006. In the disciplinary proceeding held in 2006, the petitioner was punished and the salary of the petitioner had been fixed at Rs.11,086/- and subsequently increased to Rs.12,000/- per month with effect from March 1, 2011 till the date of his retirement. It was further recorded in the order that no further incremental benefit or increase in the salary of the petitioner would be allowed till the date of his retirement.

The petitioner has preferred this writ petition at the verge of his retirement. It is alleged that the authorities have

not granted the petitioner any promotional or incremental benefits. Direction is prayed for upon the respondent nos.2 and 3 to calculate and to prepare the service book of the petitioner by granting the petitioner all promotional and incremental benefits.

The Court is not in a position to entertain the writ petition on the ground of suppression of material facts. The order of the employer fixing the salary of the petitioner at Rs.12,000/- per month with effect from March 1, 2011 till the date of retirement was not challenged. The same has been suppressed. The said order has attained finality. As such, the prayers in the writ petition cannot be allowed. The petitioner is at liberty to approach the authorities for early preparation of his service book on the basis of the entitlement of the petitioner as per the decision of the respondent/employer and the service rules. If such approach is made by the petitioner, the respondent/employer shall ensure that the service book of the petitioner is prepared on time, so that the petitioner is not deprived of his legitimate retirement benefits, if at all he is entitled to the same. If the petitioner makes an application before the authorities, the same shall be disposed of in accordance with law.

This order shall not be construed as an acknowledgement of the right of the petitioner to get any benefit under the circumstances narrated by the learned advocate for the respondent nos.2 and 3. The authorities shall give a hearing to the petitioner and dispose of the representation, if made, within a period of four weeks from

date of receipt thereof. All points are left open to be decided by the said respondents. A reasoned order shall be passed and communicated to the petitioner.

This writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)