

09.12.2021
Sl. No.18
srm

W.P.A. No. 15393 of 2021
Bishnupada Pahari
Vs.
The State of West Bengal & Ors.

Mr. A.K. Gayen,
Mr. A.A. Gayen

...for the Petitioner.

Ms. Chaitali Bhattacharya,
M. Kartik Chandra Kapas

...for the State-respondents.

Mr. Anindya Bose,
Mr. Diptendu Mandal,
Mr. Nikhil Gupta

...for the Khirpai Municipality.

Affidavit of service is taken on record.

The writ petition has been filed by an employee of Khirpai Municipality, District-Paschim Medinipur. It is the contention of the petitioner that the Department of Urban Development and Municipal Affairs (Municipal Affairs Branch), Government of West Bengal, issued a resolution dated December 26, 2019 thereby implementing the recommendation of the Sixth Pay Commission. According to the petitioner, calculation of the basic pay that would be payable to the petitioner upon implementation of the Sixth Pay Commission was Rs.31,400/-, that is, P.B. 2 of Level 6, Cell 12. According to the petitioner, the said calculation was made by

the Chairman of the Khirpai Municipality and also approved by the Director of Local Bodies. Subsequently, the calculation was re-fixed and the petitioner put in the Pay Band 2 of Level 6, Cell 10 and the re-fixed basic pay was calculated at Rs.29,600/-.

Aggrieved by the re-fixation of the basic pay, the writ petition has been filed.

Mr. Gayen, learned Advocate appearing on behalf of the petitioner, submits that once the Director of Local Bodies had approved the basic pay of the petitioner at Rs.31,400/-, the municipal authorities were not within its power to re-fix the same.

Mr. Bose, learned Advocate appearing on behalf of the municipality, submits that the earlier calculation made by the municipality was a mistake. Mr. Bose, however, denies that the calculation which was mistakenly done had been approved by the Director of Local Bodies. He further submits, even if such approval was given, it was matter of course on the faith that the calculating body had correctly calculated the revised basic pay to which the petitioner was entitled. The employer was supposed to make the calculation upon implementation of the Sixth Pay Commissioner. According to Mr. Bose, clause 4 read with clause 10(i)(b) of the said Resolution dated December 26, 2019 was followed while making the re-fixed calculation. Mr.

Bose, submits that as the petitioner had got his promotion to the post of clerk on February 23, 2016, the incremental benefit of the petitioner upon exercise of option would be calculated from January 1, 2016 and not from July 1, 2016.

As these are the issues which have to be decided by the appropriate authority, this Court is of the opinion that the Director of Local Bodies must dispose of the contentions of the writ petitioner upon considering the writ petition as a representation. The contention of the municipality shall be submitted before the Director of Local Bodies in the form of a written version and thereafter upon hearing the petitioner as also the competent authority of the municipality, a reasoned order shall be passed and communicated to all concerned.

The entire exercise shall be completed within a period of two months from the date of communication of this order.

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.)