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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 19934 of 2021

Goutam Bagui
Vs.
State of West Bengal & Ors.

Mr. Umesh Kumar Singh
.... For the petitioner.

Mr. Avijit Sarkar
... For the State

Mr. Amal Kumar Sen,
Mr. Sabyasachi Mondal
... For CSTC.

Affidavit of service filed in Court today is taken on record.

The petitioner was an employee of Calcutta State Transport Corporation (in short, CSTC) and had opted for voluntary retirement under the Voluntary Retirement Scheme (in short, VRS), 2019. The petitioner says that during his service tenure he was a member of the General Provident Fund (GPF) and as such is entitled to pension under the provisions of the Calcutta State Transport Corporation Employees' (Death-cum-Retirement Benefit) Regulations 1990, (in short, DCRB Rules). The petitioner says that on his voluntary retirement, the petitioner has been paid all the retiral benefits but pension has not been started though he retired as per the VRS on 30th September, 2019. The petitioner says that he has made a

representation to the respondent no.5 on 8th September, 2021 with a copy to the respondent nos. 6 and 8. The said representation, according to the petitioner has not yet been disposed of.

On behalf of the CSTC, it is submitted that in view of the provisions of DCRB Rules, the petitioner is not qualified for getting pension. This contention is, however, disputed by the petitioner by showing certain Memorandum issued by the Transport Department, Government of West Bengal and Circulars issued by the respondent no.5 in terms thereof. The petitioner says that in view of the language in the Memorandum of the Transport Department and the Circulars, on behalf of CSTC in pursuance thereof clearly demonstrate that the provisions of the DCRB Rules, which CSTC claims to be an embargo in giving the pension to the petitioner has been impliedly amended.

After hearing the parties and considering the materials on record, I find that similar issues, though in respect of another VRS, fell for consideration before this Court in WPA 8785 of 2021. In that case, the representation made by the petitioner therein was directed to be considered and disposed of by the Principal Secretary, Transport Department, Government of West Bengal, within a period of three months from the date of communication of the order dated 23rd April, 2021 passed

therein. Admittedly CSTC is a Corporation controlled by the State Government and as such memorandum issued by the Transport Department, Government of West Bengal has a binding effect on CSTC. I am told that though the order dated 23rd April, 2021 passed in WPA 8785 of 2021 has been duly communicated to the Principal Secretary, Transport Department, Government of West Bengal, with a copy to CSTC, but CSTC has not yet received any communication as to the decision that may have been taken by the Principal Secretary, Government of West Bengal.

In the facts and circumstances as aforesaid and considering the petitioner's case in the light of the order dated 23rd April, 2021 passed in WPA 8785 of 2021, I direct the Secretary, Transport Department, Government of West Bengal, as I am told presently there is no Principal Secretary in the said Department, to take a decision on the petitioner's representation dated 8th September, 2021 within a period of three months from the date of communication of a server copy of this order, without insisting upon production of certified copy thereof.

The petitioner shall server a copy of this order along with a copy of the writ petition with all its annexures including the representation dated 8th September, 2021 annexed thereto.

The Secretary, Transport Department, Government

of West Bengal, shall give the petitioner a reasonable opportunity of hearing by observing the prevailing Covid-19 protocol. The said Secretary shall dispose of the matter by a reasoned order and shall communicate the same within fourteen days from the date of passing of such order to the petitioner as also to CSTC.

The Secretary shall consider the issues independently, without being any way influenced by any observation of this order since I have not gone into the merits of the claim and counter claim of the parties.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

Since I have not called for any affidavit, allegations made in the writ petition are deemed to have not been admitted.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of necessary formalities.

(Arindam Mukherjee, J.)

