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28.09.2021.
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

**W.P.A 31158 of 2017
(Via Video Conference)**

**Gajendra Narayan Paria
-versus
The Indian Institute of Technology (IIT),
Kharagpur & Ors.**

**Mr. Goutam Kumar Das,
Mr. Dipanjan Datta,
Mr. S.S. Roy,
Mr. Atanu Basu.
...For the Petitioner.**

**Mr. R.N. Majumdar,
Mr. S.M. Obaidullah.
...For IIT.**

The petitioner was engaged by the Indian Institute of Technology, Kharagpur in 6th March, 1982 in Mechanic Grade 'C' under research Centre on contract basis for a period of two years or for the duration of the Centre whichever is earlier. The contract of the petitioner was renewed from time to time. Thereafter, the petitioner was again appointed to the post of Senior Mechanic on 16th April, 1991. He retired from service on attaining his normal age of superannuation on 1st May, 2014.

The petitioner relies upon a communication made by the Indian Institute of Technology, Kharagpur to the Under Secretary to the Government of India, Ministry of Human Resource Development, Department of Higher Education, Technical Section-I on 7th February, 2008 regarding consideration of the past service rendered in

Projects/Scheme by employees for the purpose of promotion in IIT, Kharagpur.

The petitioner submits that the benefit of counting the past service of similarly placed employees were allowed by Indian Institute of Technology, Kharagpur but the petitioner has been discriminated.

He made representations before the Registrar, Indian Institute of Technology, Kharagpur on 18th January, 2007 and thereafter gave repeated reminders. On 27th February, 2014 further request was made prior to his retirement followed up by repeated reminders.

The petitioner through his learned advocate served a demand justice notice to different authorities of Indian Institute of Technology, Kharagpur by a representation dated 24th November, 2017.

The allegation of the petitioner is that none of his representations have been taken into consideration by the respondent authorities till date.

The petitioner relies upon the order dated 8th May, 2014 passed by a Co-ordinate Bench of this Court in W.P. 1851 (W) of 2012 wherein the Court directed the respondent authorities to pay the benefit to the petitioner as was paid to 85% employees.

The petitioner relies upon the definition of "Qualifying Service" as appearing in general Provident Fund-cum-Pension-cum-Gratuity Scheme of the Indian Institute of Technology, Kharagpur (Statute 18B) (Schedule 'F') wherein it has been mentioned that "Qualifying Service" means service rendered as an employee in a substantive capacity including period

spent on probation, continuous/temporary or officiating service under the Institute or under the States/Central Government or under an autonomous organization or under Corporate body of States/Central Government followed without interruption by confirmation in the same or in other post shall count in full as qualifying service.

According to the petitioner, he is in service without any break from 1982 onwards till his retirement in 2014 and accordingly, the past service rendered by him in the various project of the Institute ought to be taken into consideration for the purpose of grant of retiral benefit and pay fixation in his favour.

The learned advocate appearing for the IIT, Kharagpur opposes the prayer of the petitioner.

As it appears that the representation of the petitioner is pending consideration at the end of the respondent authorities, accordingly, the instant writ petition is disposed of by directing the respondent No. 3 being the Registrar, Indian Institute of Technology, Kharagpur to take a decision with regard to the demand of justice notice made on behalf of the petitioner by his learned advocate on 24th November, 2017 strictly in accordance with the provisions of law and the decision taken by the Board of Governors in its 125th adjourned meeting held on 22nd June, 1995 and its 155th meeting held on 18th December, 2007.

The aforesaid respondent shall pass a reasoned order and communicate the same to the petitioner immediately thereafter. Decision shall be taken positively within a period of eight weeks from the date of communication of a copy of this order.

WPA 31158 of 2017 stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)