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Circuit Bench of Calcutta High Court

At Jalpaiguri

WPA 762 of 2019

Anil Chandra Dey

Vs.

The State of West Bengal & Ors.

Mr. Anirban Banerjee

...for the Petitioner.

Mr. Bikramaditya Ghosh

... For the Respondent Nos. 2 & 3.

The principal grievance expressed by the writ petitioner is that he has been getting less pension and other terminal benefits in comparison to his other retired colleagues. Admittedly, the writ petitioner retired from his service on 31st October, 2017 as a Conductor appointed by North Bengal State Transport Corporation. The representations earlier made by the writ petitioner could not be duly considered. The writ petitioner previously approached this Court in connection with WPA No.228 of 2019, which was disposed of with a direction upon the authority concerned to consider the representation of the petitioner, dated 29th January, 2019 and dispose of the same recording a reasoned order. Admittedly, hearing was extended to the writ petitioner to redress the grievance, raised in the writ petition and the answering respondent Nos.2 and 3 disposed of the representation holding that the claim of having less pension was unjustified.

Mr. Anirban Banerjee, learned Advocate for the

writ petitioner has prayed for issuance of Mandamus directing the answering respondents for payment of unpaid increments and full retiral and terminal benefits along with release of full pension amount in favour of the petitioner on the simple score that the answering respondent Nos. 2 and 3 have not duly considered the representation in its true perspective so as to release full pension amount in favour of the writ petitioner.

Mr. Anirban Banerjee, learned Advocate for the writ petitioner in the midst of hearing is candid enough to submit that the petitioner has already been inflicted with punishment, both major and minor, in connection with 4(four) departmental proceedings already initiated against the writ petitioner. Learned Advocate for the writ petitioner proposes for re-fixation of his basic pay so as to release the full retiral benefits including full pension irrespective of the punishment already given in connection with previous 4(four) disciplinary proceedings.

Mr. Bikramaditya Ghosh, learned Advocate representing the answering respondent Nos.2 and 3 incidentally has drawn reference to the copy of the Service Book of the writ petitioner starting from page 15 onwards to show that there has been multiple disciplinary proceedings, initiated against the writ petitioner, and in connection therewith punishment was

inflicted awarding both major and minor penalties. According to answering respondents there has been degradation, reduction in the scale of pay withholding of increment leading re-fixation of basic pay so long as the writ petitioner was in service, prior to his retirement. The writ petitioner, according the answering respondents, has accepted all such punishments inflicted upon him in connection with such multiple disciplinary proceedings and never challenged the same during the tenure of his service. There are sufficient reasons behind supportive of inflicting punishment on several occasions as evident from the copy of the Service Book annexed with the writ petition.

The situation is, thus very clear that the writ petitioner during his service life suffered multiple punishment in connection with as many as different disciplinary proceedings being initiated against him. Indisputably, there has been reduction of pay, degradation of the status together with withholding of increments. The writ petitioner thus suffered both major and minor penalties after being inflicted with punishment in connection with such multiple disciplinary proceedings. It cannot be a justifiable ground that since the writ petitioner has been getting less pension compared to his other colleagues retired from service, there is obviously some irregularity in the

fixation of his last pay drawn, in the absence of any wrong being shown to have been committed by the answering respondents in making re-fixation of his pay prior to his retirement, consequent upon multiple punishment, the writ petitioner suffered. When the writ petitioner has accepted the multiple punishment leading to the re-fixation of his pay, pension is, accordingly, fixed in terms of the less pay drawn by the writ petitioner at the time of his retirement. The writ petitioner has not been able to show that the re-fixation of his basic pay together with withholding of increments has been wrongly made, and as such the pension amount together with the terminal benefits was wrong. The answering respondents adverting to paragraph 7 of the affidavit-in-opposition demonstrate that no wrong was committed by the answering respondents while releasing the pension together with terminal benefits to the writ petitioner in terms of the last pay drawn by the writ petitioner, which is consequent upon the punishment, the writ petitioner suffered as a fall out of multiple disciplinary proceedings being initiated against him. Though the writ petitioner has become age old, but there is absolutely nothing to give the relief as proposed, merely upon sympathetic consideration of old age of writ petitioner.

The order dated 30th September, 2019, recorded by the Managing Director, NBSTC, Cooch Behar, as such

cannot be termed to be unreasonable or devoid of any reasons. Nothing is there in manifestation of power vested upon the answering respondents to have been exercised of in an arbitrary manner, while making release of the pension to the writ petitioner at a reduced rate.

The writ petition accordingly fails and stands dismissed.

However, there will be no order as to costs.

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

(Subhasis Dasgupta, J.)

