ORDER

IA No.GA/1/2021
W.P.O. NO.429 OF 2020
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

CHANDESHWAR SINGH
Versus
THE STATE OF WEST BENGAL & ORS.

BEFORE:
The Hon'ble JUSTICE RAJASEKHAR MANTHA
Date : 13th April, 2021.

APPEARANCE:
Mr. Debdutta Basu, Advocate
...for the petitioner.
Mr. Soumya Majumder, Advocate
Ms. Debina Chatterjee, Advocate
...for the respondents.

The writ petitioner seeks benefit of a third career advancement as specified in Clause 4 of the Guidelines for Career Advancement Scheme framed on 24th August, 2007. The same is opposed by the employer, CTC (1978) Limited [now, WBTC Limited].

The background facts are, inter alia, as follows.

The respondent No.2 is a Corporation incorporated under the provisions of the Companies Act, 1956, having perpetual existence and common seal. By a notification No.6075-F dated 21st June, 1990, the Government of West Bengal introduced a Career Advancement Scheme for employees who were stagnating without promotion or enhancement of pay scales. The said Scheme conceived of two automatic jumps in higher pay scale, the first after conclusion of 10 years of service and the second after 20 years of service.

By a Memorandum dated 4th September, 2020, the Government of West Bengal, Finance Department, Audit Branch specifically directed implementation of Memorandum No.6075-F dated 21st June, 1990 for employees of corporations, inter alia, the respondent No.2 company.

In the meantime, however, on 13th March, 2001, by Memorandum No.3015-F, the existing Career Advancement Scheme for State Government employees was modified to include three several increments i.e. the first after 10/8th year of service, the second after 16th year of service and the third one after 25th year of service.

The Government, for reasons, primarily financial, chose not to implement the 2001 modified Career Advancement Scheme to the respondent Corporation. By a communication dated 14th August, 2007, it was reiterated that the circular of the Finance Department dated 4th September, 2000 (supra) would be applied to employees of the WBTC Limited.

Consequently, based on the said communication from the State Government, the respondent company, by communication dated 24th August, 2007, informed its employees that the Career Advancement Scheme in the WBTC Limited would be in terms of the department guidelines in this regard. Guidelines were also published and circulated amongst the employees. Clause 4 of the Guidelines, however stipulated as follows:-

> "4. Benefit of C.A.S. has been given on 10/8th, 16th and 25th year respectively."

It is clear and apparent to this Court that the State Government had only permitted the respondent Corporation to implement the Career Advancement Scheme in terms of Notification No.6075-F dated 21st June, 1990. The same is reiterated as evident from Memorandum No.7552(80)-F dated 4th September, 2000 (supra) and in the communication dated 14th August, 2007 (supra). The guidelines, however, completely militate against the directives of the State Government.

The power to frame guidelines is vested in all organizations, particularly the management, to pass on service benefits to its employees. The WBTC Limited is a Government company in which the entire shareholding is held by the State of West Bengal. WBTC Limited is entirely funded by the Government of West Bengal. The Board of Directors and particularly, the Managing Director is appointed by the State Government. For all intents and purposes, the State of West Bengal has the ultimate control in the management and affairs of WBTC Limited.

When the State Government has specifically communicated and ordered implementation of the 1990 Scheme (supra) to WBTC Limited, the guidelines framed by the Board of WBTC Limited, inconsistent with such permission, must be deemed void and unenforceable to that extent. The principle of estoppel cannot be applied against WBTC Limited, since there is no estoppel against the law.

In any event it is now well settled that those employees who have received benefits under the 1990 Scheme are excluded from the modified Scheme of 2001.

For the reasons stated hereinabove, the claim made by the petitioner must fail. The writ petition is, therefore, dismissed.

In view of the above, G.A. No.1 of 2021 stands disposed of.

There shall be no order as to costs.

(RAJASEKHAR MANTHA, J.)

S. Kumar