

12th May, 2022
(D/L No.6)
(SKB)

W.P.A. 4583 of 2022

Sitesh Chandra Das @ Sitesh Das
Versus
The State of West Bengal and others

Mr. Sobhan Majumder,
Ms. Kalpita Paul
... for the petitioner.

Mr. Ashim Kumar Ganguly,
Mr. Bellal Shaikh
... for the State.

Mr. Joytosh Majumder,
Ms. Tapati Samanta
... for respondent no.2.

The petitioner prays for admissible retirement benefits including pension from 2002 onwards.

The case of the petitioner is that the petitioner took voluntary retirement on 23rd October, 2002 and made representations to the authorities on such case.

Learned counsel appearing for the petitioner submits that from 2002 till 2022, the petitioner has been deprived of his pensionary benefits.

Learned counsel appearing for the District Library Officer relies on the letter from the District Library Officer, Malda to the petitioner on 23rd October, 2002 stating that the petitioner's "resignation" from service has been accepted and that the petitioner cannot now seek to change this fact of 'resignation' to voluntary retirement. Counsel submits that because it was a case of resignation, the petitioner is not entitled to any

pension. It is also submitted that a part of the petitioner's Employee Contributory Fund has already been received by the petitioner and that there are no admissible dues remaining which may be paid to the petitioner. Counsel refers to a decision of a 3-Judges Bench of this court concerning the Death cum Retirement Benefit Scheme, 1981 which laid down a cut off year (2014) beyond which pension could not be paid under the said Scheme to persons seeking for such benefit.

Upon hearing learned counsel, the primary issue appears to be whether the petitioner can change his stand from the fact of 'resignation' to the fact of 'voluntary retirement'. Everything else flows from this fact.

The primary document in this regard is the letter of the District Library Officer to the petitioner on 23rd October, 2002 which states that the petitioner's resignation has been accepted. This letter, however, is contrary to the stand taken by the petitioner on 6th June, 2001 which is a letter of the petitioner to the District Library Officer stating that the petitioner has taken voluntary retirement from service. The case sought to be made out on behalf of the District Library Officer is also directly inconsistent with two letters emanating from the District Library Officer, namely, on 22nd May, 2002 and 18th February, 2021. Significantly,

by the latter document, it is the District Library Officer, Malda who has written to the Office of the Directorate of Pension, Provident Fund and Group Insurance, WB (DPPG), 'UTTARKANYA' Fulbari, Siliguri, forwarding the pension papers of the petitioner for necessary action at the end of the DPPG. There is no document on record or referred to on behalf of the District Library Officer which supports the stand which is now sought to be taken, namely, that the petitioner did not take voluntary retirement from service but resigned from the same. The letter of 23rd October, 2002 emanates from the District Library Officer and is not a letter from the petitioner which may be said to rectify the fact of resignation to voluntary retirement.

The District Library Officer, having taken a specific stand on 18th February, 2021, forwarded the pension papers of the petitioner to the D.P.P.G. cannot now resign from his stand and take a stand that the petitioner is not entitled to any dues on the strength of the reasons shown before this court. The decision referred to on behalf of the respondent is only in relation to a cut off date and since the said decision has not been placed before the Court, this court has not had the occasion to go into the other factual aspects of the matter.

In view of the above reasons, this court sees no substance in the stand taken on behalf of the District

Library Officer, particularly, when the District Library Officer has issued a communication supporting the stand of the petitioner on 18th February, 2021. The issue of the alleged delay on the part of the petitioner in approaching the court is hence not accepted.

W.P.A.4583 of 2022 is accordingly allowed and disposed of.

The District Library Officer and the concerned authorities including the Director of Pension, Provident Fund and Group Insurance, West Bengal are directed to take steps in accordance with the letter of the District Library Officer, Malda dated 18th February, 2021 within four weeks from today. The authorities shall intimate the petitioner within one week from taking the decision in that regard. In the event, the petitioner is found to be eligible for his pension and other retirement dues, the authorities shall make the appropriate payment to the petitioner within a period of four weeks from the date on which such decision is taken.

The observations made in this order, if any, shall not have a bearing on the authority from proceeding in accordance with law.

(Moushumi Bhattacharya, J.)