

71 13.6.2022
Sc Ct. no.22

WPA 4506 OF 2011

Pradip Kr. Sarkar & Ors.

Vs.

The State of West Bengal & Ors.

Mr. S. P. Pahari
Ms. Piuli Koley.

... For the Petitioners

An age old writ petition of 2011.

Mr. S. P. Pahari , learned advocate appears for the writ petitioners.

None appears for the respondents nor any accommodation has been sought for.

The grievance of the writ petitioners was that they were deprived of their appropriate pay-scale applicable for them and they were paid at a lower pay-scale by their employer namely, the second respondent, in the writ petition.

The matter was taken up for hearing since 2011 on several occasions. In some of such occasions, the parties either chose not to appear or prayed for adjournment in the matter. The respondents also prayed for adjournment on a number of occasions.

By an order dated March 31, 2015 direction was made on the parties to file and exchange their affidavits. Despite direction and the extension thereof, no affidavit-

in-opposition was filed by the respondents. Last and final opportunity was granted to file its affidavit-in-opposition on December 19, 2019. Even then, no affidavit was filed.

The situation is precarious. It is submitted that, some of the writ petitioners might have retired from their employment with the passage of time.

From a scrutiny of the writ petition it appears, to this Court, that the issue involved in this writ petition relates to the revision of pay-scale, according to the petitioners, to which they were entitled to but deprived during their employment. The claim of the writ petitioners was founded on the basis of the recommendation made under the Fifth Pay Commission, West Bengal.

Under the Service Juris Prudence, the revision of pay-scale has a great effect, even after retirement of an employee, on its retiral benefits. The writ petition is already pending for more than eleven years.

The nature of the grievance in the writ petition calls for an appropriate response from the employers, the second respondent and/or the respondent authorities. The petitioners have a right to receive atleast a decision of its employers on the issue with reasons. By keeping this writ petition pending in the file before this Court, as it is lying for last about eleven years, in my view, will not serve any useful purpose, neither the issue of the petitioners will be addressed.

In view of the above, this Court is of the firm view, that the said writ petition may be disposed of on the following terms :

1. The representation of the petitioners dated October 22, 2008 appearing at page 67 of the writ petition shall be considered by the third respondent being the Managing Director of the second respondent or any other appropriate and authorised person with authority of the second respondent in the light of the case made out in the writ petition along with all its annexures, upon giving an opportunity of hearing to the authorised representative of the writ petitioners in accordance with law.

2. Upon hearing the petitioners' authorised representative as stated above, the third respondent and/or the appropriate hearing authority, as mentioned above, shall dispose of the said representation of the writ petitioners with a reasoned order and then the said reasoned order must be communicated to the petitioners and their authorised representative within a period of ten days from the date of passing of the said reasoned order.

3. The entire exercise as mentioned above, must be carried out by the third respondent and/or the appropriate hearing authority of the second

respondent within a period of eight weeks from the date of communication of this order to the third respondent.

In the event the decision goes in favour of the writ petitioners, then the second respondent shall take all further steps to give effect to its decision by revision of pay-scale of the petitioners forthwith and positively within a further period of four weeks from the date of passing of the said reasoned order.

In the event it is found that the petitioners or some of them had already retired from their employment, all the connected retirement benefits to such employees should be given by the second respondent forthwith arising out of the said pay revision within the said period of four weeks as directed above.

On the above terms, the writ petition “**WPA 4506 of 2011**” stands disposed of.

There will be no order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)