

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 5023 of 2020

Malay Kumar Das & Ors.
Vs.
The North Bengal State Transport Corporation & Ors.

Mr. Sufi Masih Aftab
... For the petitioners

Mr. Amal Kumar Sen
Mr. Sabyasachi Mondal
... For the NBSTC

Six former employees of North Bengal State Transport Corporation (in short “NBSTC”) have joined themselves as petitioners to this writ petition. Although, their cause of action, if any, is different, yet they intend to maintain a single writ petition on the ground that all of them have been denied the benefit of Career Advancement Scheme (in short “CAS”) by their employer. Since the petitioners have paid the entire court fees and the matter was filed just before the Pandemic, I intend to take a lenient view instead of rejecting the petition and asking each of the writ petitioners to file independent writ petition.

It appears from paragraph 3 of the writ petition that the petitioners no.1 to 6 retired from service on attaining the age of superannuation respectively on 31st January, 2015, 30th November, 2018, 31st January, 2019, 31st January, 2018, 31st January, 2013 and 31st May,

2018. So far as the petitioners no.1 and 5 are concerned, they have approached this Court after five and seven years, respectively. The denial of benefit, if any, of the CAS was complete on their superannuation. Assuming without admitting that they had suffered an injury due to a wrongful act on the part of NBSTC, the employer, then also the injury was complete on the superannuation of the respective petitioners. The denial of CAS benefit may have caused damage to the petitioners on the same being denied which continues, but there is no continuing wrong in respect of the petitioners subsequent to their superannuation.

The petitioners no.2, 3, 4 and 6 have approached the Court within two years from the date of their superannuation. There is, as such, no inordinate delay or laches on the part of the said petitioners. However, in respect of the petitioners no.1 and 5, the delay in approaching the Court, i.e., on 13th March, 2020 when the writ petition was filed, is inordinate and amounts to laches. There is no continuing wrong to cull out an exception to allow the claims of the writ petitioners no.1 and 5. Directing consideration of the representations made by the petitioners no.1 and 5 is likely to make alive a claim which cannot be allowed due to lapse of time. In this context, reliance may be placed in the decision reported in (2010) 2 SCC 59 (Union of India v. M.K. Sarkar).

In the aforesaid facts and circumstances, the representations made by the petitioners no.2, 3, 4 and 6

on 5th August, 2019 are directed to be considered and disposed of by the respondent no.2, being the Managing Director, North Bengal State Transport Corporation, by a reasoned order, within a period of two months from date, after giving the said petitioners a reasonable opportunity of hearing. The reasoned order shall be communicated to the said petitioners within a period of a fortnight from the date of the same being passed.

Since the respondent no.2 is already a party to the writ petition and the representations of the writ petitioners no.2, 3, 4 and 6 are annexed to the writ petition, no further notice is required to be given to the respondent no.2.

The parties, including the respondent no.2, shall act on the basis of a server copy of this order without insisting upon production of a certified copy thereof.

By way of abundant caution, the petitioners are directed to serve a copy of the instant order to the respondent no.2, immediately.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted by the respondents.

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

(Arindam Mukherjee, J.)