

29.09.2022

Ct. no.21

Sl. No.1

Sanjay

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 7627 of 2022

Dilip Sasmal

Vs.

State of West Bengal & Ors.

Mr. Nandadulal Bandyopadhyay,
Mr. Mahadeb Ghosh,
Mr. Pritam Ghoshfor the petitioner.

Mr. Bhaskar Prasad Vaisya,
Mr. Nilay Baran Mondal
...for the respondent nos. 2, 3 and 4.

In this writ petition the writ petitioner who is a Stenographer-cum- Assistant in Scale No.(9) working with the West Bengal Co-operative Milk Producers Federation Ltd. prays for benefits as per ROPA-80 equivalent to the scale payable to “Stenographer” in the State Government Offices. The petitioner also prays for benefits under Office Memo 291 and 292 dated January 24, 1994 promulgated for giving Career Advancement Scheme (CAS) benefits to the employees of the Federation.

The prayer of the petitioner is two-fold. The petitioner claims for second CAS benefits to Scale no. 16 as per Federation’s Order No. 292 dated November 27, 2005. The petitioner also prays for third CAS benefits at Scale no. 17 upon completion of 25 years of service with effect from November 27, 2014.

Mr. Bandyopadhyay, learned counsel appearing for the petitioner submits that despite Office Order

dated November 27, 2005 vide No. 292 the said benefits were not extended to the petitioner since November 27, 2005. The said benefits were only extended to the petitioner on December 18, 2012. Furthermore, he submits that the benefits to be extended to the petitioner working for 25 years was not granted to the petitioner. The petitioner was appointed on November 27, 1989.

Mr. Vaisya, learned counsel appearing on behalf of the respondents/Federation draws attention of this Court to the report on affidavit filed on behalf of the respondent nos. 2 to 4 on August 11, 2022. Pursuant to the representation made by the petitioner on December 10, 2021 for being granted third CAS benefits in Scale No. 17 personal hearing was given to the petitioner. In the said personal hearing the petitioner admitted that the next lower scale during the time of his first promotion was between Rs.1390/- -2970/- and not scale that was between Rs.1640/-- 3435/-. Therefore, the petitioner in effect admitted that the promotion that was given to him vide Office Order No. 295 dated January 24, 1994 with effect from January 1, 1994 was a jump promotion whereby benefits of two promotions were given to the petitioner at one go. Therefore, second promotion that was given to the petitioner with effect from 2005 was in effect the third promotion and the petitioner was not entitled to claim any further promotion. The third CAS benefits as claimed by the petitioner upon

completion of 25 years of service is wrongly done since the same was applicable to the employees who were not given third promotion during the tenure of their service.

Having considered the rival submissions of the parties and the materials placed on record, this Court finds that the petitioner is entitled to the benefits of the Office Order dated November 27, 2005 whereby the petitioner's Scale No. 16 vide CAS 292 was granted. There was no justification for withholding his benefits from November 2005 till December 18, 2012. The arrears of pay that the petitioner is entitled to from November 27, 2005 is to be disbursed by the petitioner within six weeks from date with an interest of 6% per annum thereof. As far as entitlement to the third promotion is concerned upon completion of 25 years of service this Court finds that the petitioner is not entitled to the same since he has already been given the benefit of third promotion in November 2005. In 1994 the petitioner received benefits for higher grade of pay than he was entitled to. The said findings appear from the minutes of the hearing produced by the learned counsel appearing for the respondents in the report on affidavit filed by the respondent nos. 2,3 and 4. This Court also finds that the fact of such hearing was not brought to the notice of this Court by the petitioner in the writ petition.

In this writ petition the petitioner has prayed for arrears of benefits upon consideration of his

representation dated December 10, 2021 and also demand for justice dated February 10, 2022. In both the representation and the demand of justice, the petitioner has claimed for grant of his CAS benefits in Scale No. 16 from November 27, 2005.

Even though no specific prayer has been made in the writ petition for release of such benefits since the petitioner has prayed for release of the same by his representation and his demand of justice, this Court finds no reason for withholding the same by the respondent authorities. In the light of the discussion above, the arrears of the second CAS benefits that the petitioner was entitled to from November 27, 2005 should be disbursed within eight weeks from date.

This Court finds that the petitioner is not entitled to get benefit of third CAS as claimed by him.

With the aforesaid directions, the writ petition being **WPA 7627 of 2022** is **disposed of**.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)