

M/L 363
24.08.2022
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WPA 11558 of 2021

Shyamal Kr. Adhikary

Vs.

West Bengal Financial Corporation & Ors.

Mr. Sourav Sen

Ms. A. Chakraborty

...for the Petitioner

Mr. Jishnu Choudhury

Mr. Aritra Basu

Mr. Abhijit Sarkar

...for the WBFC

Affidavits filed by the parties are taken on record.

Petitioner is a superannuated employee of West Bengal Financial Corporation being the principal respondent. The prayer of the petitioner is enhancement of ceiling of gratuity payable to the petitioner on superannuation from Rs. 10 lakhs to Rs. 20 lakhs in consonance with the Payment of Gratuity (Amendment) Act, 2018. According to the petitioner, if the ceiling of gratuity is set at Rs. 20 lakhs, in that event petitioner would have been benefited on releasing higher amount towards gratuity which has not been paid to the petitioner by the respondent authorities since in respect of service of the petitioner under the West Bengal Financial Corporation, the ceiling of gratuity has been fixed at Rs. 10 lakhs. Petitioner has prayed for enhancement of such limit which would facilitate the petitioner to receive higher amount towards gratuity.

The West Bengal Financial Corporation is represented by Mr. Jishnu Choudhury, learned Counsel who has drawn

attention of this Court to the decision of the Assistant Secretary to the Government of West Bengal, Finance Department, dated 23rd April, 2019 which is annexed to the affidavit-in-opposition wherefrom it appears the Finance Department has regretted the proposal of the Corporation to enhance the ceiling of the gratuity to Rs. 20 lakhs.

It further appears from the said order dated 23rd April, 2019 that there was a proposal forwarded by the Corporation to the concerned authority of the Finance Department, Government of West Bengal, for enhancing the ceiling from Rs. 10 lakhs to Rs. 20 lakhs vide letter dated 8th April, 2019.

It has further been submitted on behalf of the Corporation that it is not within the domain of the Corporation to unilaterally enhance the ceiling of gratuity without obtaining a nod from the State of West Bengal. The Scheme of the statute under the State Financial Corporation Act, 1951 has been demonstrated before this Court upon placing reliance on Section 48 of the said Act of 1951.

It has further been submitted that the regulations have been framed by the Corporation strictly in consonance with Section 48 of the State Financial Corporation Act, 1951 with the approval of the State of West Bengal.

This Court has heard the submissions made on behalf of the learned advocates representing the parties and perused the relevant provisions of law. It appears in consideration of the Scheme of the said Act of 1951 as well as the Rules framed thereunder, namely, the West Bengal Financial Corporation (Payment of Gratuity to Employees) Regulations, the Corporation cannot unilaterally enhance the limit of gratuity

in terms of the Payment of Gratuity (Amendment) Act, 2018 in absence of the nod of the State of West Bengal. Since the concerned authority of the Finance Department, Government of West Bengal, has already regretted the proposal of enhancement of ceiling of gratuity in respect of the employees of the West Bengal State Financial Corporation vide order dated 23rd April, 2019 this Court in absence of specific challenge being thrown to such order dated 23rd April, 2019 does not find it apt to decide the claim of the petitioner seeking enhancement of ceiling of gratuity.

Accordingly, the writ petition stands dismissed.

However, this order shall not preclude the petitioner to take steps against the said order dated 23rd April, 2019 issued by the Assistant Secretary to the Government of West Bengal, Finance Department, in accordance with law, if so advised.

However, there shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)