

01 10.06.22

Ct. No. 04

Akd

WP.ST. 85 of 2019

Prosanta Kumar Roy

Vs.

The State of West Bengal & Ors.

Mr. Tarapada Das,

Mr. Chandan Dutta,

Ms. Soma Chakraborty.

... for the petitioner.

Mr. Tapan Mukherjee,

Mr. Gourav Das,

Ms. Debdooti Dutta.

... for the State.

The Tribunal dismissed the application filed by the writ petitioner solely on the ground of limitation.

It is no doubt true that Section 21 of the Administrative Tribunal Act, 1985 provides that the application must be filed within a year from the date of the cause of action having arisen therein. The Tribunal was of the view that since the writ petitioner intended to enforce or implement the order passed in the year 2001 and the application before the Tribunal was taken out after a considerable delay, the said application is palpably barred by limitation.

The record would reveal that by virtue of an order dated 8th November, 2001 passed by the District Magistrate, Purba Burdwan, the prayer for promotion of the petitioner was allowed with retrospective effect from 1st April, 1984. However, the said order was not implemented till 24th February, 2011 when another order was passed by the District Magistrate, Purba Burdwan promoting the petitioner to the post of Upper Division Clerk with effect from 1st January, 2011.

Admittedly the petitioner retired from service on the last day of December, 2012. A representation was made on 8th June, 2013 for release of the arrears and the other benefits attributable to the said promotional post which had not been attended as yet. Though the petitioner in the application filed before the Tribunal

has prayed similar relief as claimed in the said representation, but, in effect, the application was taken out for consideration of the said representation filed on 8th June, 2013.

Whether the claim of the petitioner is justified or not is a matter within the domain of the concerned authority and the Tribunal would not have perceived that the cause of action has accrued in the year 2001. In effect, the prayer though couched in different manner, relates to non-consideration of the said representation and, therefore, the Tribunal ought not to have rejected the said application on the ground of limitation.

It would be futile exercise to remit the matter back to the Tribunal, as we find the moment the representation is made, it is the bounden duty of the authority to take a decision thereupon.

We, therefore, set aside the impugned order.

The District Magistrate, Purba Burdwan is directed to consider and dispose of the representation dated 8th June, 2013 filed by the writ petitioner after affording an opportunity of hearing to all the interested persons and by recording proper reasons in accordance with law. The entire exercise shall be completed within four weeks from the date of the communication of this order.

Nothing observed hereinabove shall be construed to have impact on the merit of the contentions raised in the said representation, as the said authority shall take a decision independently in accordance with law.

The writ petition is thus disposed of.

(Harish Tandon, J.)

(Shampa Dutt (Paul), J.)

