

88. 20.05.2022
BD Ct.15

WPA 10692 of 2016

Sri Sadhan Kumar Panda

-vs-

The State of West Bengal & Ors.

Mr. Amal Baran Chatterjee

Mr. Biswanath Samanta

... for the petitioner.

Ms. Anjusri Mukherjee

Ms. Susmita Biswas Chowdhury

... for the State

Petitioner is retired assistant teacher of a non-Government aided secondary high school who was initially appointed as an assistant teacher with effect from 15th January, 1981. He retired on superannuation on 31st January, 2009.

The grievance of the petitioner is in spite of rendering 28 years continuous approved service full pensionary benefits which he is entitled to receive in terms of Government Order dated 19th May, 2009 being no. 74/SE-(B)/1M-4/2009 has not been accorded in his favour.

Mr. Amal Baran Chatterjee, learned senior advocate appears on behalf of the petitioner and submits that on introduction of this Government Order dated 19th May, 2009 wherein Clause-A(ii) provides that once an employee has rendered a

minimum qualifying service of 20 (twenty) years, pension shall be paid at 50% of the last basic pay drawn. According to the petitioner in terms of this provision as contained in G.O. dated 19th May, 2009 he is entitled to get the full pensionary benefit since he retired on superannuation on 31st January, 2009 after rendering 28 (twenty eight) years of service.

Ms. Anjusri Mukherjee, learned advocate appears on behalf of the State-respondents and submits that on superannuation of the petitioner on 31st January, 2009 first Pension Payment Order was issued under memo dated 20th January, 2009 and subsequently due to revision of retiral dues as per ROPA 2009 Rules Revised Pension Payment Order was issued under Memo dated 16th May, 2011. Placing reliance on such revised Pension Payment Order issued under memo dated 16th May, 2011, it has also been submitted that the benefit of revision of pension as per ROPA 2009 rules has already been accorded in favour of the petitioner.

This Court has heard the learned advocates representing the parties and perused the relevant materials available on record.

The petitioner retired on superannuation on 31st January, 2009. The grievance has been voiced

on behalf of the petitioner that in spite of rendering service for 28 (twenty eight) years full pensionary benefits have not been accorded to the petitioner in violation of the Government Order dated 19th May, 2009 which stipulates 20 (twenty) years qualifying service is the criteria for sanctioning pension at the rate of 50% of the last basic pay drawn. Petitioner is contending that the pension of the petitioner has not been fixed at the rate of 50% of the last basic pay drawn by the petitioner.

In view of aforesaid facts this Court grants leave to the petitioner to make a representation to the Director of Pension Provident Fund and Group Insurance, Kolkata, being the respondent no. 2, within a period of 30 (thirty) days from this date. If such representation is made within the aforesaid period the respondent no. 2 in his turn shall decide the representation of the petitioner claiming fixation of pension in terms of Clause-A(ii) of the Government Order dated 19th May, 2009 within a period of 8 (eight) weeks thereafter on granting opportunity of hearing to the petitioner or his representative. The reasoned order shall be passed by the respondent no. 2 and the same shall be communicated to the petitioner within 1(one) week thereafter.

With the above direction the writ petition stands disposed of.

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.)