

04 01.09.22

Ct. No. 25

Akd

WPA 29922 of 2016

**Sri Sudarshon Prodhan
Vs.
The Kolkata Minicipal Corporation & Ors.**

**Mr. Anil Kumar Chattopadhyay.
... for the petitioner.
Mr. Alok Kumar Ghosh,
Mr. Swapan Kumar Debnath.
... for the K.M.C.**

The petitioner has prayed for issuance of a Writ of Mandamus directing the respondent authority to release the arrear financial benefits upon re-fixation of pay with notional benefit in terms of the direction passed by a Co-ordinate Bench of this Court on August 28, 2014 in W.P. 13285 (W) of 2012.

Mr. Chattopadhyay, learned Advocate appearing for the petitioner, submits that he has submitted a representation before the Executive Engineer (Civil) on August 24, 2016 requesting him to make arrangement for payment of the arrear amount upon re-fixation of his pay. Learned Advocate prays that the said representation may be directed to be considered by the respondent authority.

Mr. Ghosh assisted by Mr. Debnath, learned Advocates appear for the Kolkata Municipal Corporation. He draws attention of this Court to the specific statement contained in paragraph 6 of the affidavit-in-opposition filed by the Corporation and submits that the petitioner has been paid excess amount, inasmuch as, though the Co-ordinate Bench directed payment of the benefits upon re-fixation of pay with effect from the date of filing the writ petition, but the same was paid with effect from June 01, 2011.

Heard the learned Advocate for the parties.
Perused the materials on record.

The petitioner claims that the Corporation has not released the benefits in terms of the order passed by the Co-ordinate Bench. Upon going through the statements contained in paragraph 6 of the said affidavit-in-opposition, this Court finds that it has been specifically stated therein that Corporation in compliance of the order re-fixed the pay scale and the basic pay scale of the petitioner was fixed at Rs.16,810/- as Foreman and the amount due and payable was released to the petitioner on and from 01.06.2011 i.e. prior to the date of filing of the writ petition which is 26.06.2012 and the petitioner has also accepted the same. The aforesaid statements have not been specifically denied by the petitioner in his affidavit-in-reply. It was only stated therein that the statement made by the Corporation in the affidavit-in-opposition is denied and disputed except the matter of record.

Such vague denial in the affidavit-in-reply to the specific statement contained in the affidavit-in-opposition cannot be accepted by this Court and this Court is of the considered view that the petitioner has been paid more than what he was entitled to in terms of the order passed by the Co-ordinate Bench.

This Court, therefore, holds that the instant writ petition is devoid of merit and the same, accordingly, stands dismissed without, however, any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied on priority basis.

(Hiranmay Bhattacharyya, J.)

