

46 **09.02.
2023**
Ct. No. 04

Ab

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side.

WP.ST 10 of 2023

Dr. Partha Sarathi Giri
Vs.
The State of West Bengal and others.

Mr. Mukul Lahiri,
Mr. Anindya Lahiri,
Mr. Samrat Dey Paul.
... for the petitioner.

Ms. Chaitali Bhattacharya.
... for the State respondents.

Mr. Sourav Mondal.
... for the respondent no. 6.

On bare look of the impugned order, we thought it fit not to entertain the instant writ petition as the said order was passed fixing a date for admission of the said application. However, the last sentence of the order invited our attention that the interim reliefs prayed for had been refused by the Tribunal and, therefore, we decided to proceed with the instant writ petition for the limited purpose whether the petitioner has been able to make out a good case for passing an interim order.

The Tribunal was approached for a mandatory direction to re-fix the salary of the petitioner upon accrual of due annual increments, which were withheld since 1st July 2015 up to 31st December 2019 i.e. the date of retirement and to pay arrears of salary with interest till payment.

The allegation runs into several pages pertains to a letter dated 13th July 2016 issued by the Principal to the Registrar of the college to stop the annual increment since July 2015 up to the date of retirement of the

petitioner. It is further indicated that the petitioner was paid two increments between 1st January 2013 and 1st January 2014 borne from the pay certificate dated 20th March 2018 issued by the department and thereafter has been denied a further increment.

Such being the cause of action for approaching the Tribunal, the petitioner sought for an interim relief so that the monthly pension may be granted for survival. It appears from the pleadings of the said application that the petitioner joined the West Bengal Health Services as Medical Officer in the year 1983 and allowed to work till the age of 65 years i.e. up to 31st December 2019.

The dispute relates to the increments post 2015, which shall be decided after affording an opportunity of hearing to the respondents. In view of the fact that the petitioner attained superannuation and was paid salary till the last month, we do not find any justification in not passing an interim order directing the authorities to pay pension as per the last pay drawn.

The authority cannot sit tight over the matter simply because the petitioner has approached the Tribunal seeking such substantive relief, but should have proceeded to calculate the pension on the basis of the last pay drawn for survival of the retiree. We do not find any reasons in the impugned order for refusal to pass any interim order of such nature, which ought to have been done.

We, therefore, modified the impugned order to the extent that the respondent authorities shall calculate the pension of the petitioner on the basis of last pay drawn from the date of superannuation and shall disburse the same without prejudice to the rights and contentions of the parties until the disposal of the tribunal application.

The entire exercise shall be completed by the respondent authorities within four weeks from the date of

communication of this order.

The time limit given herein above is peremptory and mandatory.

With these observations, the writ petition is disposed of.

There shall, however, be no order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)