

*Dd* 04 13.06.2023

**WP.ST 21 of 2023**

**Rabindranath Samui  
Vs.  
The State of West Bengal & Ors.**

Mr. D. N. Roy,  
Mr. M. N. Roy,  
Mr. B. Nandy,  
Mr. Rajesh Kr. Shah, Advocates  
... .. For the Petitioner

Mr. Sourav Mondal,  
Mr. Samrat Paul, Advocates  
... .. For the Principal Account General

Mr. Somnath Naskar, Advocate  
... ..For the State

The writ petition is directed against the order dated February 14, 2020 passed in OA no. 558 of 2016 by which, the request of the writ petitioner for direction upon the respondents for granting benefit of Career Advancement Scheme on completion of satisfactory service of 16 years after setting aside the compliance report was rejected.

Learned advocate appearing for the writ petitioner submits that, the writ petitioner retired from service on March 31, 2009. The writ petitioner approached the learned tribunal by filing OA 1478 of 2011 praying for direction upon the respondents to grant him benefit of Career Advancement Scheme on completion of satisfactory service of 16 years and for re-fixation in the pre-revised scale no. 18 and consequential retirement benefits including pension. Such original application was disposed of by directing authorities to

consider the representation of the petitioner. The authorities rejected the prayer of the writ petitioner and hence, a further original application was filed before the tribunal which was disposed of by the impugned order.

Learned advocate appearing for the petitioner submits that, for the purpose of granting benefits under the Career Advancement Scheme, the markings of the annual confidential report are taken into consideration. In the facts of the present case, he submits that, the markings noted in the annual confidential report of the writ petitioner were not communicated to the writ petitioner, thereby, the authorities violated the Constitutional rights guaranteed under Article 14 thereof. In support of such contention, he relies upon **(2009)16 SCC 146 [Abhijit Ghosh Dastidar vs. Union of India & Ors.]**. He submits that, the authorities be directed to fix the retirement benefits receivable by the petitioner by granting the petitioner notional promotion in terms of the Career Advancement Scheme and to pay other pensionary benefits on such recalculation. He contends that, the writ petitioner is entitled to scale no. 18.

State is represented.

**Abhijit Ghosh Dastidar (supra)** is of the following view :-

*"08. Coming to the second aspect, that though the benchmark "very good" is required for being considered for promotion, admittedly the entry of "good" was not communicated to the appellant. The entry of "good" should have been communicated to him as he was having "very good" in the previous year. In those circumstances, in our opinion, non-communication of entries in the annual*

*confidential report of a public servant whether he is in civil, judicial, police or any other service (other than the armed forces), it has civil consequences because it may affect his chances of promotion or getting other benefits. Hence, such non-communication would be arbitrary, and as such violative of Article 14 of the Constitution. The same view has been reiterated in the abovereferred decision (Dev Dutta case, SCC p. 738, para 41) relied on by the appellant. Therefore, the entries "good" if at all granted to the appellant, the same should not have been taken into consideration for being considered for promotion to the higher grade. The respondent has no case that the appellant had ever been informed of the nature of the grading given to him."*

**Abhijit Ghosh Dastidar (supra)** relates to grant of promotion as well as non-communication of the entries in the Annual Confidential Report of a public servant whether he is in civil, judicial, police or any other service (except in the armed forces). It is of the view that, entries in the Annual Confidential Report of an employee in the categories noted above are with civil consequences and may affect the chances of promotion or receiving other benefits of an employee. Therefore, it held that, non-communication of such entries are arbitrary and illegal and violative of Article 14 of the Constitution of India.

In the facts of the present case, the respondents are unable to establish either before us or before the learned tribunal that the entries in the Annual Confidential Report of the writ petitioner were incorrect to the writ petitioner contemporaneously. Therefore, in

light of the ratio of **Abhijit Ghosh Dastidar (supra)** rights of the writ petitioner recognized under Article 14 of the Constitution of India stood violated.

Consequently, we set aside the impugned order of the learned tribunal and direct the authorities to grant appropriate notional promotion in terms of Career Advancement Scheme taking into consideration the period of service of the writ petitioner and to fix the pay notionally upon grant of such promotion. Thereafter, the authorities will revise the pensionary benefits in terms of the notional promotion and notional fixation of pay of the writ petitioner. The entire exercise may be completed within four weeks from the date of communication of this order to the authorities. The revised pension payment order be made over to the writ petitioner within six weeks from the date of communication of this order.

WP.ST 21 of 2023 is **disposed of** accordingly.

**(Debangsu Basak, J.)**

**(Md. Shabbar Rashidi, J.)**