

DL-8 with 9

04.08.2023
Court No.5
(AD)

WP.ST 39 of 2015

**Sri Asoke Bhakat
Vs.
The State of West Bengal & Ors.**

With

WP.ST 40 of 2015

**Sri Naresh Chandra Biswas
Vs.
The State of West Bengal & Ors.**

*Mr. Sagar Bandyopadhyay
Mr. K.K. Maiti
Mr. Tapan Bhanja
Mr. Saurov Mallick*

... for the petitioners.

*Mr. Somnath Ganguli, Ld. AGP
Mr. Balarko Sen*

... for the State-respondents.

Two writ petitions are taken up for analogous consideration as they emanate out of the same order dated September 2, 2014 passed in O.A. 1437 of 2012 and O.A. 1438 of 2012.

By the impugned order, the Tribunal negated the claims of the writ petitioners which the writ petitioners were seeking. Essentially, the writ petitioners sought benefits with regard to employees who were appointed in 1998. It is contended on behalf of the writ petitioners that, the writ petitioners participated in a selection process for the appointment to the post of Work Assistants under different zones of Public Works (PW) Directorate in the year 1996. In

1997, a panel was prepared. The writ petitioners featured in the panel of successful candidates. A portion of the panel was given employment in 1998. Petitioners being aggrieved by the action of the authorities in not granting them employment approached the Tribunal. Ultimately, the petitioners joined the post of Work Assistants sometime in 2010.

Learned Advocate appearing for the petitioners submits that the petitioners are restricting their claim for notional benefits from the date of the recommendation for appointment made on April 28, 2003 by the Chief Engineer Public Works Department. In support of the contention that the petitioners are entitled to such notional benefits, learned Advocate appearing for the petitioners relies upon *(2013) 11 Supreme Court Cases 618 (Kshiti Goswami & Ors. Vs. Subrata Kundu & Ors.)*.

As noted above, the writ petitioners participated in a selection process to the post of Work Assistants under different zones of Public Works Directorate in the year 1996. They were given the appointment in 2010. Petitioners seek benefit from April 28, 2003 being the date on which they were recommended for appointment. None of the petitioners worked at the post prior to 2010. Whether or not they were entitled to be appointed in 1998 or in 2003 are issues which were never agitated by the writ petitioners before an appropriate forum. The writ petitioners may or may not possess a right to claim damages which they did

not pursue. Essentially, granting them the notional benefits, as prayed for today, from any date of commencement prior to them joining a post and discharging their duties will be allowing the petitioners to obtain benefits in respect of a period of time when they did not render any service to the public at all. Tax payers money is involved. Grant of notional benefits will impact the pensionary benefits. They will be drawing pensions if notional benefits are granted as prayed for today, at rates which they are otherwise not entitled to.

Kshiti Goswami & Ors. (supra) is a direction passed in contempt jurisdiction. The facts and circumstances obtaining in *Kshiti Goswami & Ors. (supra)* are not same as that of the present writ petitions.

In such circumstances, we find no merit in the writ petitions.

WP.ST 39 of 2015 and WP.ST 40 of 2015 are dismissed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

