

28.07.2023
Item No.13
Court No.550
Avijit Mitra

WPA 6980 of 2017

**Haramohan Ghosal
Versus
State of West Bengal & ors.**

Mr. Indranath Mitra
...for the petitioner
Mr. Santanu Kumar Mitra,
Ms. Rama Halder
...for the State

This writ petition was preferred primarily praying for the following relief:

“(a) A writ of and/or in the nature of mandamus commanding the respondents , each one of them, their agents and/or assigns more particularly the District Judge, Burdwan to release and pay the arrear salary due and payable on and from 1.6.2003 to 31.10.2007 to the tune of Rs. 2,10,607/- together with interest @ 10 % p.a. forthwith”

Mr. Mitra, learned advocate while representing the writ petitioner submits that the petitioner joined as lower division clerk in the Judicial Department, Government of West Bengal under the disposal of the District Judge, Burdwan on 22nd June, 1970 and after rendering his service for almost 37 years without any blemish he has retired from his service on 31st October, 2007 while working as a Sheristedar on attaining the age of superannuation.

He submits that the Hon’ble Supreme Court of India appointed a Commission under supervision of Justice Shetty to examine the service conditions of the staff of the Subordinate Courts of each State and Union territory of India and to report. Upon detailed examination of service

conditions of such staff, the Commission submitted a report and made some recommendations in the year 2003. The Hon'ble Supreme Court by its solemn order dated 7th October, 2009 approved the recommendation of the Shetty Commission and directed all the States and Union Territories to accept the recommendation and accordingly, the State West Bengal accepted the recommendation of Justice Shetty Commission without any modification w.e.f. 1st April, 2003.

According to Mr. Mitra , as per the recommendation of the Shetty Commission , a Sheristedar of Civil Judge (Jr. Dvn.) would be entitled to get pay scale of Rs. 4,800-10925 (unrevised) from his existing scale of pay of Rs. 4,000-8850 w.e.f. 1st April, 2003 and the post of Sheristedar attached to the court of Civil Judge (Sr. Divn.) would be re-designated as Sr. Sheristedar and Sr. Sheristedar would be entitled to get the scale of pay of Rs. 5500-11325/-(unrevised) from the existing scale of pay of Rs. 4,000-8850/- (unrevised) w.e.f. 1st April, 2003. He alleges that though the Government of West Bengal accepted the Shetty Commission recommendation but scale of pay of the petitioner had not been revised accordingly till the date of his retirement.

PPO *vide.* dated 20.4.2007 issued to the petitioner postulates that his monthly pension was quantified at Rs. 5088/-(unrevised) w.e.f. 1.11.2007. Subsequent thereto, a revised PPO *vide.* dated 3.3.2010 was issued and his monthly pension was revised to Rs. 11,890/- as per ROPA

Rules of 2009 and revised PPO dated 11.3.2016 speaks that monthly pension of the petitioner was revised to Rs. 25,500/- as per recommendation of Shetty Commission and his arrear pension was also released.

Mr. Mitra claims that the petitioner is entitled to get Rs. 2, 10,607/- after deducting tax as arrear salary for the period commencing from 1.6.2003 to 31.10.2007.

Situated thus, the petitioner by making two detailed applications on 26.5.2016 and 2.11.2016 to the District Judge, Burdwan prayed for necessary order for release and/or disbursement of arrear salary of the petitioner from 1st June, 2003 to 31st July, 2007 at the enhanced rate of PB-4 i.e. Rs. 9,000-40,500/- being continuance one as per the order dated 16th March, 2005 passed by the Hon'ble Apex Court but the District Judge, Burdwan did not consider and dispose of the applications as yet. Aggrieved thereby the petitioner has been constrained to approach this Court.

Mr. Santanu Mitra, learned advocate appearing for the State denies and disputes the contention of Mr. Mitra.

Heard the learned advocates appearing for the respective parties and perused the materials on record.

Undoubtedly, in deference to the order of the Hon'ble Supreme Court, the recommendation of the Shetty Commission was accepted by the State of West Bengal in 2009 w.e.f. 1st April, 2003. From the office order dated 30.4.2012, it would be explicit, the petitioner was given scale of pay of Bench-Clerk -Gr.-I (in short, BC-I) w.e.f.

01.02.2005 to 17.8.2005 and from the Memo. dated 31.08.2012 issued by the Secretary to the Government of West Bengal, Judicial Department, it transpires that the Sr. Sheristedar would be entitled to get pay scale of Rs. 4,800-10925 (unrevised) from the existing Rs.4,000-8850 (unrevised) w.e.f. 1st April, 2003 and the Memo. dated 11.06.2015 speaks that permission was accorded to fill up the posts of BC-I by transfer from the cadre holding the pay scale no. 12(pre-revised) and by promotion from the cadre holding the pay scale no. 10(pre-revised).

Record reveals that the petitioner's pension was revised on diverse dates and now, he has been drawing pension @ Rs. 25,5000/- p.m.

Record further reveals that by making two applications dated 26th May, 2016 and 2nd November, 2016, the petitioner ventilated his grievances before the District Judge, Burdwan on the score that he is entitled to get arrear salary w.e.f. 1st June, 2003 to 31st October, 2007 at the enhanced rate of pay scale as per order dated 16th March, 2015 passed by the Hon'ble Apex Court with a prayer for an order for release of his arrear salary but those two applications are still awaiting decision from the District Judge, Burdwan.

Recently, the district of Burdwan has been bifurcated and I am informed that now the District Judge, Purba Burdwan is the authority to consider and dispose of the representation made by the petitioner.

In view of such chronological events, I direct the District Judge, Purba Burdwan to consider the representation of the petitioner dated 26th May, 2016 after affording an opportunity of hearing to the petitioner positively within a period of six weeks from the date of communication of this order. It is clarified that if the decision is taken in favour of the writ petitioner, the District Judge, Purba Burdwan shall take next follow up actions to give effect to the decision so that the writ petitioner can get arrear salary along with interest, if any.

If the representation of the petitioner is decided against the petitioner, the District Judge Purba Burdwan shall pass a speaking order and shall communicate the said order to the petitioner within two weeks from the date of taking such decision.

The petitioner is directed to place a copy of the writ petition along with all annexures thereto before the District Judge within 10 days from the date and the petitioner shall be at liberty to place all the documents to substantiate his claim during the course of hearing.

With the above observation the writ petition is disposed of.

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

Urgent certified photocopy of this order, if applied for, be supplied as expeditiously as possible.

(Partha Sarathi Chatterjee, J.)

