

28.07.2023
Item No.15
Court No.550
Avijit Mitra

WPA 6990 of 2017

Lakshmi Narayan Nayek
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 1.4.2003 to 31.12.2010 to the tune of Rs.1,33,507/- 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 15th June, 1968 and after rendering his service for more than 42 years without any blemish he has retired from his service on 31st December, 2010 as a process-server 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 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.

Revised PPO of the petitioner dated 31.07.2015 speaks that the petitioner pay was revised and he got scale of pay of Rs. 5400-25200/-, PB-2 and grade pay- 2600 and his monthly pension was revised to Rs. 16,410/-

Mr. Mitra claims that the petitioner is entitled to get arrear salary at the enhanced rate from 1.4.2004 to 31.12.2010 including arrear from 1.1.2006 to 31.3.2009 as per ROPA Rules, 2009.

While the matter stood thus, the petitioner by making an application on 9.9.2015 to the District Judge, Burdwan prayed for necessary order for release and/or disbursement of arrear salary of the petitioner from 1.4. 2003 to 31.12.2010 at the enhanced rate (including arrear from 1.1.2006 to 31.3.2009) but the District Judge, Burdwan did not consider and dispose of the application as yet. Grieved 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. Record reveals that the petitioner's pension was revised and now, he has been drawing pension to the tune of Rs. 16,410/- p.m.

Record further reveals that by making an application dated 9.9.2015, the petitioner ventilated his grievances before the District Judge, Burdwan on the score that he is entitled to get arrear salary w.e.f. 1.4. 2003 to 31.12.2010, at the enhanced rate (including arrear from 1.1.2006 to 31.3.2009) as per ROPA Rules, 2009 with a prayer for an order for release of his arrear salary but that application 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 9.9.2015 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.)