

Item-13. 13-09-2023

sg Ct. 8

MAT 467 of 2017

State of West Bengal & Ors.
Versus
Tapas Banerjee & Ors.

Mr. Mrinal Kanti Ghosh, Adv.

Mr. Arindam Ghosh, Adv.

...for the State appellants

Mr. Sunit Kr. Roy, Adv.

Mr. Debasis Maitra, Adv.

...for the writ petitioner

1. In view of the fact that the writ petitioner was awarded the decree on February 22, 2008 in the convocation, the decision in *State of West Bengal & Ors. vs. Chandra Bhusan Dwivedi* reported in *2019 (3) CHN (Cal) 221* applies and he would not be entitled to any additional increments in terms of the Rule 12(5) of ROPA 1998.
2. It has been submitted that the order impugned has been complied with in the contempt proceeding initiated against the appellants. The order dated 11th August, 2017 in WPCRC 23(W) of 2017 is placed before us. It appears that the contempt application was disposed of by recording that the order has been complied with without prejudice to the rights and contentions of the appellants in the appeal being MAT 467 of 2017.
3. The petitioner becomes disentitled to increment by reason of the fact that ROPA 2009 was given retrospective effect from 1st January, 2006 and during this time, the petitioner obtained the Ph.D degree.
4. Although, we are of the view that by reason of the retrospective effect of the said Rule, the petitioner is not

entitled to two additional increments and the claim for the benefit of two additional increments in view of the introduction of ROPA 2009, were not available to the writ petitioner in view of the judgement in *Chandra Bhusan Dwivedi* (supra) decided only on 24th April, 2019.

5. Any payment made towards increments till date, shall not be realized from the writ petitioner.
6. For the purpose of future pay fixation, the two increments shall not be taken into consideration.
7. With the above directions, the appeal is disposed of.
8. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Siddhartha Roy Chowdhury, J.)

(Soumen Sen, J.)