

28.11.2023.
Court No.13
Item No. 11
ap

W.P.A. No. 15464 of 2023
Goutam Datta
Versus
The State of West Bengal & Ors.

Mrs. Pampa Dey Dhabal.

...For the petitioner.

Mr. Arjun Ray Mukherjee,
Mr. Subhendu Sengupta.

....For the State.

Mr. Ranjay De.

...For the respondent no.4.

1. The petitioner claims counting of his service from the date he joined for the first time as Typist-cum-Copier in the Judgeship of South 24 Parganas on 12th October, 2012. For personal reasons, the petitioner applied for transfer to Judgeship of (the then) undivided Bardhaman and was allowed the same in the year 2014. He joined the Bardhaman Judgeship on 10th January, 2014.

2. The petitioner claims that he has completed eight years of continuous service under the Subordinate Judiciary as Typist-cum-Copier and is, therefore, entitled to the first benefit under the Career Advancement Scheme (in short 'CAS'). Presently, the petitioner is posted in Asansol under the Judgeship of Paschim Bardhaman after the Bardhaman District was bifurcated.

3. The respondents rejected the petitioner's application on the ground that two years service rendered by him under the Judgeship of South 24

Parganas cannot be reckoned for the purpose of length of service. Reliance is placed primarily on a Notification dated 12th April, 1972 issued by the Deputy Secretary to the Government of West Bengal to the District Judge, Howrah.

4. It is clear from the said Circular of 1972 (supra) that the same is for the purpose of reckoning seniority of a Group-“D” staff in a transferee Judgeship. The said Notification also makes reference to seniority of the concerned employee in the Judgeship from which he is transferred from. Such transfer, according to the State, could be either on account of administrative exigency or on account of the employee’s personal reasons.

5. The aforesaid Circular dated 12th April, 1972 can have no manner of application for the purpose of the benefit under the CAS.

6. Indeed it is true that in terms of the said Circular of 1972 (supra), upon transfer to the Bardhaman Judgeship, the petitioner would be placed at the bottom of the list of seniority. However, such placement in the bottom of the seniority list can have no bearing on the claim of any employee under a Judgeship in the State for the purpose of CAS benefits.

7. In view of the above, this Court is of the view that the petitioner is entitled to the benefit of the first eight years of CAS, after due consideration of his service of

two years rendered with the Judgeship of South 24 Parganas.

8. There shall be a writ of Mandamus directing the respondents to make available the CAS benefit of eight years as on the date of his completion of eight years of service that will include two years service rendered at the Judgeship of South 24 Parganas and the balance six years with the Judgeship of United and Paschim Bardhaman.

9. Let monetary benefits accrued to him most likely in the year 2020 be made available to the petitioner within a period of one month from date. The said amount shall carry interest @ 8% per annum on and from the date on which the petitioner completed eight years of service in the manner as indicated hereinabove till the date of actual payment.

10. The order of the District Judge, Paschim Bardhaman dated 23rd September, 2021 shall stand quashed and set aside.

11. The proceedings before the Principal Secretary, Judicial Department, Government of West Bengal shall not be continued any further and shall stand closed.

12. With the aforesaid directions, the instant writ petition shall stand disposed of.

13. There will be no order as to costs.

14. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(*Rajasekhar Mantha, J.*)