

DL-19

19.07.2023
Court No.5
(AD)

WP.ST 213 of 2013

**Jagannath Karmakar & Ors.
Vs.
State of West Bengal & Ors.**

*Mr. Goutam Misra
Mr. Krishna Roy Chowdhury
Mr. Vaskar Pal*

... for the petitioners.

*Mr. Tapan Kumar Mukherjee, Ld. AGP
Mr. Somnath Naskar*

... for the State.

Petitioners are aggrieved by the order dated January 24, 2011 passed by the West Bengal Administrative Tribunal in OA-920 of 2003.

Petitioners are diploma holders. They were appointed prior to January 1987 as workshop instructor. Petitioners seek upgradation of their scale of pay. Request for upgradation of their scale of pay was made to different authorities. It received the consideration of the 4th Pay Commission. 4th Pay Commission was of the view that the petitioners were not entitled to upgraded scale of pay as sought for by them. Petitioners approached the Tribunal. Tribunal negated the claim.

Today, the learned Advocate appearing for the petitioners draws the attention of the Court to a writing dated November 8, 2005 issued by the Director of Technical Education & Training, West Bengal proposing upgradation of their scale of pay.

Learned Senior Advocate appearing for the State submits that, the Director of Technical Education & Training, West Bengal does not possess the requisite financial authority to recommend upgradation of the scale of pay. In any event, at best, it is proposal for upgradation.

We considered the impugned order of the Tribunal. The Tribunal elaborately discussed the contentions of the petitioners. The Tribunal found that the grievances of the petitioners received consideration at diverse level at diverse points of time including by the 4th Pay Commission and was negated.

The Tribunal noted that, complex matters relating to pay fixation where duties and responsibilities of different posts are required to be evaluated are best left to the expert body. Tribunal, however, entered the caveat, that, judicial review of pay fixation is permissible.

There is an order of the High Court passed in CR No.3021(W) of 1985 directing payment of a higher scale of pay on the principle of equal pay for equal work. We perused the judgment and find that such order was passed on the basis of the principle of non-traverse of the allegations made in the writ petition, since the State went unrepresented and did not file any affidavit controverting the allegations made in the writ petition. In such circumstances, it would be inappropriate to apply the same ratio in the facts of the present case as

the factual scenario are different.

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

WP.ST 213 of 2013 is dismissed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

