

28.07.2023
Item No. 199
Ct. No. 238
AKG

WPA 17936 of 2022
Pranay Kanti Jana
Vs.
The Indian Institute of Technology (IIT), Kharagpur & Ors.

Mr. Goutam Kr. Das,
Mr. Indranuj Dutta

...for the Petitioner

Mr. R. N. Majumdar,
Mr. S. M. Obaidullah

...for Indian Institute of Technology

The petitioner was appointed by the Indian Institute of Technology, Kharagpur on December 19, 1978 as a Mechanic (Group “B”) for a project. Subsequently, he was appointed to the post of Technical Assistant at the Indian Institute of Technology, Kharagpur as a regular employee with effect from September 1, 1988. The petitioner was granted financial upgradation as Laboratory Superintendent on completion of about 27 years of service with effect from July 1, 2005 in the Pay Scale of Rs. 7500/- - 12000/-. Ultimately, the petitioner retired from the post of Senior Technical Superintendent on April 30, 2017.

After his retirement, the petitioner filed a writ petition before this Court alleging, inter alia, that while similarly circumstanced other employees had been given the benefit of their scheme/project service in counting the total period of service under the

Indian Institute of Technology, the petitioner had not been given the same benefit. The said writ petition was disposed of by an order dated September 24, 2021 by a Co-ordinate Bench of this Court with a direction upon the institute to consider the case of the petitioner in accordance with law, following which the institute passed a reasoned order on November 29, 2021, thereby rejecting the claim of the petitioner. In this writ petition, the said order dated November 29, 2021 has been challenged.

It should be noted that initially this writ petition was heard along with WPA 17932/2022. An impression was given to this Court that in both the matters, the petitioners sought to compare their case with one Somnath Banerjee. Accordingly, a direction was passed on February 20, 2023 upon the institute to file an affidavit to explain the following:

1. On what basis of 85 employees, as referred to in the order impugned dated November 29, 2021 were given the promotional benefits taking into account their scheme service.
2. The institute will also explain as to how Shri Somnath Banerjee was given the promotional benefits as well as the retiral benefits from February 12, 1982 i.e. the

date of his appointment in scheme service and why in case of the petitioner, such benefits have been calculated from the date of his regular appointment in the Institute.

The institute accordingly filed an affidavit in this case.

Unfortunately, after the disposal of W.P.A. 17932 of 2022 on July 14, 2023, the petitioner changed his stance and sought to compare his case with one Tarun Kr. Mondal. A comparative chart has been prepared by the petitioner to compare the service of the petitioner and that of Tarun Kr. Mondal. The chart is quoted below :

Sri. Tarun Kumar Mondal EC: 87049	Sri. Pranay Kanti Jana EC: 88051
- Project/Scheme Service: Technical Assistant- 17.07.1984 (FN) to 09.12.1987 (AN) Scale of Pay: Rs. 425-15-500- EB-15-560-20-700/- (3rd CPC) Rs. 1640-60-2600-EB- 75- 2900 (4TH CPC) - Institute Service: Technical Assistant: 10.12.1987 (FN) to 02.12.1992 (AN) Scale of Pay: Rs. 425-15- 500- EB-15-560-20-700/- (3rd CPC) Rs. 1640-60-2600-EB- 75-2900 (4TH CPC) - Appointed for the post of STA vide Office Order No. R/130/92 dated 22.12.1992 on 03.12.1992 (FB) with scale of pay: Rs.	Project Scheme Service: 19.12.1978 to 30.06.1980 Mechanic Group B-Rs. 460(consolidated) 01.07.1980 to 30.04.1983-Technical Assistant-Rs. 600 (consolidated) 02.05.1983 to 31.08.1988- Technical Assistant- Rs. 425- 15-500-EB- 15-560-20-700 (3rd CPC) with initial basic pay of Rs. 485/- per month+ dearness allowance 01.09.1988 to 02-12- 1992- Technical Assistant-Rs. 425- 15-500-EB-15- 2900(4th CPC)

2,000-60-2,300- EB-75-3,200 (4th CPC). • Date of effect for next higher post and pay scale on combination of services- 01-08-1982 vide Office Order No. ESTT/81/2006 dated 17.02.2006 consequent upon the approval of the competent authority the initial pay of the incumbents concerned has been revised and refixed on antedating and selection under R & CPS • Thereafter as per 5th CPC Scale of Pay is Rs. 6,500-200-10,500 (Annexure P-7, page 68 of the writ petition).	• Appointed to the post of Senior Technical Assistant on 03.12.1992 (FN) vide Office Order No. R/130/92 dated 22.12.1992, Rs. 2000- 60-2300-EB-75-3200 (4th CPC), Rs. 6,500-200-10,500 (5th CPC) • R & CDS promotion not granted to the incumbent and has not antedated his services towards the combination of services. • Promoted under RCPS on 01.07.2005 as Lab Superintendent (designation changed) with pay scale of Rs. 7,500-250-12,000 vide Office Order No. ESTT/571 /2007 dated December 6th, 2007 Reference; ESTT/449/2007 dated 28.09.2007. • Promoted under MACP on 01.01.2015 as Senior Technical Superintendent with pay band of Rs.9,300- 34,800 and Grade Pay of Rs. 5,400 vide Office Order No. ESTT/044/2017 dated 17.01.2017. • Retirement date- 30.04.2017
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The petitioner contends that while Tarun Kr. Mondal had been given the benefit of Recruitment and Career Development Scheme, the petitioner has been denied of the said benefit.

It appears that the petitioner was appointed in the scheme service as Mechanic "Group-B" with effect from December 19, 1978 on contractual basis with a consolidated remuneration of Rs.460/- per month. Thereafter he was appointed as Technical Assistant with effect from July 1, 1980, on contractual basis with a consolidated remuneration of Rs.600/- per month. The petitioner was appointed as a Technical Assistant in the scheme service with effect from May 2, 1983 in the pay scale of Rs.425-700/- on contractual basis. The petitioner thereafter was appointed in the institute's service with effect from September 19, 1988 as Technical Assistant. Thereafter, he was appointed as a Senior Technical Assistant with effect from December 3, 1992 and on completion of 12 years of service, he was appointed as Laboratory Superintendent with effect from July 1, 2005 under Recruitment and Career Probation Scheme.

By an order dated December 6, 2007, I find justification in the stand of the institute that since the petitioner was already appointed to the higher post of Senior Technical Assistant at the institute with effect from December 3, 1992. His scheme service in the lower post of Technical Assistant could not be counted for the purpose of seniority for antedating the promotion already granted to him. The

affidavit of the institute further clarifies that the petitioner was granted retirement benefits considering his scheme service with effect from May 2, 1983.

In that view of the above, it cannot be said that the petitioner has been able to make out comparable case with Tarun Kr. Mondal. The petitioner and the said Tarun Kr. Mondal have always been treated differently in the scheme service as well as in the institute service.

Therefore, I am of the view that the petitioner cannot compare his case with Tarun Kr. Mondal as well.

Accordingly, **W.P.A 17936 of 2022** is dismissed.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Kausik Chanda, J.)