

09.10.2023
SL No.49
Court No.8
(gc)

**MAT 1523 of 2023
CAN 1 of 2023**

**Gajendra Narayan Paria
Versus
The Indian Institute of Technology
(IIT), Kharagpur & Ors.**

Mr. Goutam Kumar Das,
Mr. A. Basu,
Mr. Indranuj Dutta,
...for the Appellant.
Mr. R.N. Majumder,
Mr. S.M. Obaidullah,
...for the IIT.

1. The appeal is arising out of an order dated 14th July, 2023 in connection with a writ petition in which the petitioner has prayed for quashing and/or setting aside of the decision of the Registrar, IIT, Kharagpur rendered in consideration of the representation made by the writ petitioner on 24th November, 2017 in deference to the order dated 28th September, 2021 by Justice Amrita Sinha. The second round of litigation has resulted in dismissal and hence this appeal.
2. The petitioner has relied upon benefits extended to 85 employees similarly circumstanced and instance of one Somnath Banerjee who has claimed to be

similarly placed as that of the writ petitioner. The facts reveal that Somnath Banerjee served the institution as contractual employee between 12th February, 1982 and 7th August, 1984 as mechanic and thereafter he was appointed to a substantive post whereas the petitioner continued to remain as a contractual employee in Group-‘C’ from 9th February, 1992 till his appointment on 18th April, 1991. The appellant relied upon the decision of the Board of Governors held on 22nd June, 1995 to argue that by reason of the said decision, the petitioner is entitled to counting of past services for the purpose of promotion and fixation of pay scale. Apart from the fact that he did not raise any issue before he retired from service and even after receiving entire service benefits, the fact remains that the said decision only approved counting of past service rendered by him in different schemes/project services carried out by the institute as qualifying service for the purpose of retirement benefit only.

3. We fully agree with the reasoning given by the Registrar in not accepting the extended

meaning advanced by the writ petitioner with regard to the said resolution.

4. The learned Counsel for the appellant has submitted that 85 employees received benefits and also one Subrata Kr. Giri. Mr. Giri received the benefit by virtue of an order dated 8th May, 2014. The case of Mr. Giri was that out of 100 employees only 85 employees were given benefit of Modified Assured Career Progression (MACP).
5. In view of the admitted position that Modified Assured Career Progression, benefit was given to 85% employees, similar benefit was extended to the petitioner. There is no similar allegation in the writ petition. The claim is different from what Mr. Giri has claimed in the said petition. Moreover, the consideration for extending such benefit to the 85 employees was that by 18th December, 2007, they have received all the benefits and they have been serving the institute over three decades and, accordingly, any attempt to withdraw the benefits would have a serious repercussion. It was not based on any legal interpretation of the relevant rules. The consequences that might follow in the event of withdrawal of such benefit had

prevailed over the Board not to take any contrary decisions.

6. Although, we may not agree with the reasoning for which the writ petition was dismissed, however, for the reasons stated above, we feel that the representation was correctly considered by the Registrar in denying the claim to the appellant.

7. We affirm the order of Registrar.

8. The appeal fails.

9. Accordingly, the appeal and the application stand dismissed.

10. However, there shall be no order as to costs.

11. Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)