

IN THE HIGH COURT AT CALCUTTA

(Civil Appellate Jurisdiction)

APPELLATE SIDE

Present:

**The Hon'ble Justice Subrata Talukdar
and
The Hon'ble Justice Krishna Rao**

MAT 1386 of 2021

With

IA No. CAN 1 of 2022

CAN 2 of 2022

**West Bengal Scheduled Caste and Scheduled Tribes Development &
Finance Corporation Employees' Association & Ors.**

Versus

The State of West Bengal & Ors.

Mr. Joyak Kumar Gupta
Mr. Susanta Saha

.....For the Appellants

Mr. Raghunath Chakraborty
Mr. M. Ahmed
Ms. Amrita De

.....For the Corporation

Mr. Arjun Roy Mukherjee
Mr. Joyjeev Medhi
Ms. Sucharita Paul

.....For the State

Hearing concluded on : 03.02.2023

Judgment on : 31.03.2023

Krishna Rao, J.:-

This appeal is directed against the judgment and order passed by the Learned Single Judge in WPA No. 27225 of 2013 dated 18th November, 2021, wherein the Learned Single Judge had dismissed the writ petition.

The main grievance of the appellant is for introduction of the Pension Scheme of the employees of the West Bengal Scheduled Castes and Scheduled Tribes Development and Finance Corporation at par with the State Government employees.

Since inception the employees of the West Bengal Scheduled Castes and Scheduled Tribe Development and Finance Corporation (herein after referred to as “the Corporation”) were enjoying the facilities of Contributory Provident Fund Scheme till the Employees’ Pension Scheme, 1995 was introduced. The Scheme was introduced with effect from 16th November, 1995 without giving an opportunity to the members of the appellant to exercise their options for availing of such Scheme. Being aggrieved with the Scheme, the petitioners have made representation on 17th December, 1996 to the respondent authorities with the request to introduce the Government Provident Fund Scheme by abolishing the Contributory Provident Fund Scheme.

Though the appellants have made several representations to the respondent authorities but till the year 2009, the respondents have not taken any steps and finally on the representation dated 5th October, 2009, the then Managing Director of the Corporation recommended the case of the appellant to the Principal Secretary to the Government of West Bengal,

Backward Classes Welfare Department for extension of the benefit of pension for the employees of the West Bengal Scheduled Castes and Scheduled Tribes Development Corporation and Finance Department. The Managing Director has also recommended the request of the appellants for grant of pension benefits.

The letter of the Managing Director addressed to the Principal Secretary to the Government of West Bengal, Backward Classes Welfare Department reads as follows:

“1094/SCST Dated

***Principal Secretary to the
Government of West Bengal
Backward Classes Welfare Department
Writers Buildings, Kolkata 700001***

*Subject: Extension of Pension Benefit for Employees of
WBSCSTDFC*

Sir,

You may kindly be award that about 240 employees serve the Head Office and the District Branches of the West Bengal Scheduled Castes & Scheduled Tribes. Development & Finance Corporation (WBSCSTDFC). They work in tandem with the Panchayats and Urban Local Bodies in implementing Family Oriented Economic Development Schemes for the poor SC/ST people across the State. While the work load of the Corporation is ever increasing, through accumulation of works related to schemes sanctioned in earlier years, introduction of new programmes formulated by the Central & State Government, and assignment of fresh responsibilities, the manpower availability is constantly shrinking by reason of death and retirements. We are currently running 58 employees short of the sanctioned strength, but our District Teams are working hard to achieve the Annual Targets set.

Service conditions of our employees are guided by the provisions of the West Bengal Scheduled Castes & Scheduled Tribes Development & Finance Corporation Service Rules, 1987. They

draw Pay and Allowances and some other service benefits at the rates applicable for State Government Employees, but are not entitled to any Pension Benefit as of now. The employees association has long been demanding introduction of a Pension Scheme similar to that prevalent in a number of undertakings of the GoWB like the North Bengal State Transport Corporation, Calcutta State Transport Corporation and the Calcutta Tramways Company Ltd etc. Their demand has recently been reinforced by a Government Order issued by the Transport Department under their No. 4094-WT/11B-14/2007 dated 17/09/2009 allowing the employees of these undertakings Pension/Family Pension at par with the State Government Pensioners.

I am enclosing a copy of the representation in the matter received from the WBSCSTDFC Employees Association along with a copy of the aforesaid order of the Transport Department. I would request you kindly consider their prayer favourably, and recommend grant of Pension Benefit to provide our employees a sense of social security which in turn would give them the impetus to perform better and achieve the avowed objectives of the Corporation.

Yours faithfully

*(Debashis Bose)
Managing Director.”*

In the 61st Board Meeting of the Corporation which was held on 15th June, 2010, it was decided why the benefit of Pension Scheme after switching over from Contributory Provident Fund to Government Provident Fund Scheme should not be extended to the appellants though the other organizations like West Bengal Khadi & Village Industries, West Bengal Pollution Control Board, West Bengal Agro Industries Corporation have been enjoying the benefit of pension after switching over from Contributory Provident Fund to the Government Provident Fund.

The decision taken in the meeting reads as follow :

<i>iv) Demands of the Employees' Association of WBSCSTDFC</i>	<i>a) Introduction of Pension: MD briefed the Board members of</i>
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	the present position and stated that the proposal for grant of Pension to the employees of WBSCSTDFC in lieu of CPC has since been recommended by the BCWD, and was now reportedly under consideration of the Finance Department. Though the precedents of State owned Transport Corporations were cited in the proposal, it is reliably learnt that such benefits have also been extended to organizations like the W.B. Khadi & Village Industries Board which are engaged in functions similar to the WBSCSTDFC. Members reiterated that as the employees of organizations like the W.B. Pollution Control Board and W.B. Agro Industries Corporation have also been enjoying pension benefits after switching over from CPC to GPF, there was no reason why it could not been extended to the employees of this Corporation MIC, BCWD advised MD to collect the orders and move the Finance Department through the BCW Department. b) Improved CAS: As far as Extension of the benefits of improved CAS (8:16:25) to the Corporation employees is concerned, MD stated that since the issue is long pending and the financial involvement is very small, the same should be considered favourably to boost the morale of the employees, who are managing the affairs in the face of an acute staff shortage. Chairman directed MD to
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	<i>prepare a detailed note in the matter, indicating the financial implications of the proposal and place it for his kind consideration and approval.</i> c) Enhanced Gratuity: <i>M.D informed the Board Members that the file was lying with Finance Department and a positive outcome was expected shortly.</i>
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As per the recommendation of the Corporation, the Government of West Bengal, Backward Classes Welfare Department has called for several details for Introduction of pension policy and accordingly the Corporation has submitted all the details to the concerned authority for taking appropriate decision. At the time of submitting the report it was clarified that :

“VIII. As regards, Retirement benefits (Pension), in line with the recommendations of the pay commission the following guidelines will be followed :

There will be no change in the existing retirement benefits in respect of the employees covered under C.P.F,- Gratuity-cum-E.P.F. (Pension) schemes Existing ceiling of gratuity will be revised as and when the payment under Gratuity Act will be revised.”

On receipt of all the required details for introduction of pension policy, the Deputy Secretary to the Government of West Bengal, Backward Class Welfare Department vide communication dated 18th December, 2012 had forwarded the noting of the file which reads as follows :

“We may return the file to Acldmn. Deptt. regretting our inability to agree to the proposal for switching off from C.P.F.

*Scheme to G.P.F-cum-Pension scheme for the employees of
W.B.S.C. & S.T.D & F.C.”*

Learned Single Judge had disposed of the writ application on merit by holding that the prayer to allow switch over is not only a policy matter but also involves complicated economic issues. Learned Judge has not considered that the competent authority without assigning any reason and without considering the recommendations had returned the file to the Administration only regretting his inability to agree to the proposal for switching from CPF Scheme to GPF-cum-Pension Scheme.

On the recommendation of the Corporation, the Government of West Bengal has called for all reports but while rejecting the request of the appellants, the Government of West Bengal has not indicated any reasons for non-implementation of GPF-cum-Pension Scheme for the employees of the Corporation and the learned Single Judge has failed to consider the said aspect of the matter. Only for these reasons, this Court is not able to accept the impugned judgment dated 18th November, 2021.

Accordingly, impugned Judgment dated 18th November, 2021 and the impugned noting of the file appearing at page 112 of the instant appeal dated 21.11.2012 stand set aside. The Principal Secretary, Department of Finance, Government of West Bengal is directed to consider the case of the appellants by taking into consideration the recommendations and the documents submitted by the Corporation as well as the fact that similar benefits have been granted in respect of other entities of the State

Government like the Corporation and pass a reasoned and speaking order within two months from receipt of the copy of this order.

MAT No. 1386 of 2021 with **CAN No.1 of 2022** and **CAN No. 2 of 2022** stand accordingly **disposed of**.

Parties shall be entitled to act on the basis of a server copy of the Judgment and Order placed on the official website of the Court.

Urgent Xerox certified photocopies of this Judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

I agree.

(Subrata Talukdar, J.)

(Krishna Rao, J.)