

05.07.2023
DL-57
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 20931 of 2022

Amal Biswas
Vs.
The State of West Bengal & Ors.

Mr. Sanjay Saha,
Mr. Monoranjan Jana
.....for the petitioner.
Mr. Sudip Das
.....for BENFISH.
Mr. Srijan Nayak,
Ms. Rituparna Maitra
.....for the State.

The report on affidavit and the exception thereto
as filed in Court today are retained with the records.

The petitioner is a retired employee of West
Bengal State Fishermen's Co-operative Federation
Ltd. (in short "BENFISH"). The petitioner retired from
service on June 30, 2019. The petitioner claims
benefits for enhancement/revision of his pension
pursuant to a Finance Department's Memo dated
October 1, 2019 vide no.536-F(Pen).

There is no dispute that such memo was issued
for the State Government employees.

Mr. Saha, learned counsel appearing on behalf
of the petitioner submits that the said memo is also
applicable to the petitioner since he retired on June
30, 2019, i.e. within the relevant period between
January 1, 2016 and December 31, 2019.

Mr. Das, learned counsel appearing on behalf of BENFISH/respondent nos.3 to 6 submits that the petitioner is not covered by the said memo dated October 1, 2019. BENFISH is an autonomous body. It is a cooperative society. Till such time BENFISH itself adopts the recommendations of the Government it cannot be held to be liable to revise its pay as per the recommendations of the Finance Department. The recommendations of the Finance Department vide memo dated October 1, 2019 was adopted by a memo dated July 17, 2020 issued by the Principal Secretary, Department of Fisheries, Aquaculture, Aquatic Resources & Fishing Harbours, Government of West Bengal.

By the memo dated July 17, 2020 it was clearly notified that there will be no change to the existing retirement benefits in respect of the employees who are covered under the CPF-Gratuity-cum-EPF (pension) Scheme and Leave encashment. Only the ceiling limit of gratuity was increased from Rs.10,00,000/- to Rs.12,00,000/- for such retired employees. The entire liability of the revised pay and allowances was to be borne by BENFISH from its own resources.

Considering the submissions of the parties and the materials placed on record, this Court is of the

view that BENFISH is an autonomous body and the executive decision dated July 17, 2020, having regard to the income and expenditure of the said body cannot be challenged in a writ petition in the absence of manifest mala fide intention or ulterior motive or arbitrariness.

Therefore, this Court is of the view that since the autonomous body/employer has to have regard to all the material considerations along with financial considerations prior to implementation of the recommendations of the 6th Pay Commission there is no infirmity in the decision making process leading to the memo dated July 17, 2020.

In such view of the matter, **WPA 20931 of 2022** is **disposed of** without any order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)