

Dd 08 04.09.2023

WP.ST 121 of 2023

***The State of West Bengal & Ors.
Vs.
Smt. Aparna Kundu & Ors.***

*Md. Galib,
Mr. Gourav Das, Advocates
... ... For the Petitioners/State*

*Mr. Deepnath Roy Chowdhury,
Mr. Gazi Faruque Hossain,
Ms. Priyanka Mondal, Advocates
... ... For the Private respondent*

The writ petition is directed against an order dated August 8, 2022 passed in OA 914 of 2015 by the West Bengal Administrative Tribunal.

By the impugned order, the Tribunal quashed order of rejection dated March 3, 2015 of the department and directed the authorities to grant retiral benefits to the private respondent treating her to be appointed to the post of Assistant Project Officer with effect from June 12, 1989.

The writ petition is at the behest of the State.

Learned advocate appearing for the State submits that, the private respondent was deputed to the post of Assistant Project Officer with effect from June 12, 1989. The private respondent superannuated from such post in 2011. The private respondent claimed retiral benefit on the basis of her functioning as the Assistant Project Officer for the period from June 12, 1989 till her superannuation. Such claim was negated by the reasoned order dated March 3, 2015.

Drawing the attention of the Court to the impugned order, learned advocate for the State submits that the Tribunal after quashing the order dated March 3, 2015 on the ground of breach of principles of natural justice, erred in deciding the issue of retiral benefits of the private respondent. According to him, private respondent was not entitled to retiral benefits as Assistant Project Officer, since her deputation exceeding the period of four years from the date of initial deputation, was in breach of memorandum dated February 18, 1982 issued by the Finance Department.

The private respondent is represented.

From the records made available to Court, it appears that, the private respondent was initially appointed as Lady Extension Officer on November 4, 1970 for the Social Education at Medinipur, Tamaluk Development Block. Subsequently, she was posted on deputation as Assistant Project Officer under Bhangar I & II, R.F.L Project, South 24-Parganas pursuant to the memorandum dated April 7, 1989 issued by the Director of Adult Education. The private respondent joined the post as Assistant Project Officer on June 12, 1989. The private respondent continued on deputation at such post till her superannuation on March 31, 2011. The private respondent drew salary as an Assistant Project Officer from June 12, 1989 till her superannuation.

It is at the stage of calculating the retiral benefits of the private respondent that, the issue as to her deputation arose. The Authorities ultimately took the view, as noted in the order dated March 3, 2015 that, the deputation of the private respondent was in violation of a Finance Department memorandum dated February 18, 1982 and, therefore, the private respondent was not entitled to the retiral benefits as Assistant Project Officer.

We find from the records that, the private respondent drew salary as an Assistant Project Officer from June 12, 1989 till her superannuation without any objection from the State. The State treated the private respondent as an Assistant Project Officer. State utilized the services of the private respondent as an Assistant Project Officer. Therefore, State should not be allowed to contend now that, the private respondent is not entitled to the retiral benefits as an Assistant Project Officer after discharging duties with regard thereto from June 12, 1989 till her superannuation on March 31, 2011.

The order of the authorities dated March 3, 2015 was correctly set aside by the Tribunal on the ground of breach of principles of natural justice. The private respondent was not heard prior to the order dated March 3, 2015 being passed.

The Tribunal is vested with the jurisdiction to decide the issues relating to the service conditions of State Government employee. The private respondent was a State Government employee and was being denied her legitimate claim with regard to her retiral benefits and, therefore, was entitled to invoke the jurisdiction of the Tribunal as done in the present case. The Tribunal was vested with the jurisdiction to decide the issue of entitlement of retiral benefits as reflected in the impugned order.

In such circumstances, we find no merit in the present writ petition, WP.ST 121 of 2023 is **disposed of** without any order as to costs.

The authorities will act in terms of the order of the Tribunal impugned herein within a period of a fortnight from date.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)