

DL-22

12.09.2023
Court No.5
(AD)

WP.ST 188 of 2014
With
IA No. CAN 1 of 2023

Shibapada Pal
Vs.
State of West Bengal & Ors.

Mr. Kallol Basu
Mr. Manas Dasgupta
Mr. Nilanjan Pal

... for the petitioner.

Mr. Tapan Mukherjee,
Ld. Sr. Advocate & Ld. AGP
Mr. Pinaki Dhole
Mr. Avishek Prasad

... for the State.

Mr. S. Basu

... for the respondent no.6.

*In re.: **IA No. CAN 1 of 2023***

CAN 1 of 2023 is an application for restoration.

For the ends of justice and on the basis of the pleadings made in the application for restoration, the order of dismissal dated July 26, 2023 is recalled.

WP.ST 188 of 2014 is restored to its original file and number.

IA No.: CAN 1 of 2023 is disposed of.

*In re.: **WP.ST 188 of 2014***

The writ petition is directed against an order dated June 11, 2014 passed in OA-797 of 2011.

By the impugned order, the Tribunal directed the authorities to consider whether the writ petitioner is

entitled to higher scales with effect from a date not earlier than the date on which the period of undergoing penalty imposed under order dated October 5, 2001 is over strictly in accordance with rules. Such consideration was directed to be made within a period of four months from date of communication of that order.

The Tribunal also directed that, in the event the petitioner was found to be entitled to promotion to higher scales on such consideration, he should be given all consequential actual service benefits including retirement benefits.

Writ petitioner superannuated on April 30, 2008. Prior to his superannuation he faced two disciplinary proceedings. In one disciplinary proceeding, an order of punishment was passed. The other disciplinary proceeding was dropped.

Writ petitioner after suffering order of punishment in one of the disciplinary proceedings, approached the Tribunal for consideration of the promotion which the petitioner was denied due to the pendency of the two disciplinary proceedings.

On appraisal of the facts, the Tribunal directed the authorities to consider the claim of the writ petitioner in the manner as noted above.

Promotion is not a matter of right. However, an incumbent is entitled to be considered for promotion. Writ petitioner was considered due to the pendency of

the disciplinary proceedings. Now his candidature can be considered by the authority.

The authorities could not complete the exercise in terms of the order of the Tribunal in view of the pendency of the writ petition.

We are of the view that, interest of justice would be sub-served by requiring the authorities to complete the exercise as directed by the impugned order within a period of four months from the date of communication of this order to the authorities.

We clarify that, in the event, the writ petitioner is found to be entitled to promotion to higher scales on the considerations as noted in the impugned order, he shall be given all consequential actual service benefits including retirement benefits.

WP.ST 188 of 2014 is disposed of without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

