

DL-11

02.08.2023
Court No.5
(AD)

WP.ST 364 of 2011
With
IA No.: CAN 4 of 2019 (Old No.: CAN 8465 of 2019)

Abdul Rakib
Vs.
State of West Bengal & Ors.

Mr. Dinesh Kumar Sharma
... for the petitioner.

Mr. Tapan Kumar Mukherjee, Ld. AGP
Mr. Somnath Naskar
... for the State-respondents.

*In Re.: **IA No.: CAN 4 of 2019 (Old No.: CAN 8465 of 2019)***

The application for restoration of CAN 9974 of 2018 is pending since 2019.

For the ends of justice and on the basis of the averments made in the application for restoration, we recall the order dated July 31, 2019.

IA No.: CAN 4 of 2019 (Old No.: CAN 8465 of 2019)
is allowed.

CAN 9974 of 2018 is restored to its original file and number.

*In Re.: **CAN 9974 of 2018***

CAN 9974 of 2018 is an application for restoration of **WP.ST 364 of 2011** which was dismissed for default on November 14, 2018.

Considering the averments made in the petition and for the ends of justice, we recall the order dated November 14, 2018.

WP.ST. 364 of 2011 is restored to its original file and number.

CAN 9974 of 2018 is allowed.

In Re.: **WP.ST 364 of 2011**

Learned Advocate appearing for the petitioner submits that, the petitioner was superseded by his junior in the scale of pay and that the junior of the petitioner was granted higher scale of pay.

State is represented.,

The writ petition is directed against an order dated June 29, 2011 passed in O.A.-9051 of 2007 by the West Bengal Administrative Tribunal.

It appears from the records made available to Court that, the writ petitioner was granted pay protection once in view of his junior getting a higher scale of pay. Subsequently, the junior of the writ petitioner attained higher scale of pay. The petitioner sought pay protection for the second time in view of the pay disparity in relation to his junior colleague.

The Tribunal dealt with the issue of such pay protection for the second time on the anvil of Rule 55(4) of West Bengal Service Rules, Part-1. Tribunal found that, while the petitioner was enjoying the status as Assistant Sub-Inspector, and the so-called junior was a police driver. Pay parity can be granted for equal nature of work. The Tribunal did not find that, the junior of the petitioner discharging his duties as a police driver was discharging

similar duties as that of the petitioner as an Assistant Sub-Inspector of Police.

In such circumstances, the Tribunal did not allow pay protection to the petitioner.

In view of the discussions above, we find no illegality in the impugned order of the Tribunal warranting interference.

Consequently, **WP.ST 364 of 2011** is dismissed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

