

WP.ST 349 of 2013

**Sri Satyendranath Biswas
Vs.
The State of West Bengal & Ors.**

Mr. Tulshidas Ray,
Mr. Tapan Ray,
Mr. Tirthankar Roy, Advocates
... .. For the Petitioner

Mr. Tapan Kumar Mukherjee, AGP
Mr. Somnath Naskar, Advocates
... .. For the State

The writ petition is directed against an order dated July 9, 2013 passed by the tribunal in OA 845 of 2012.

Petitioner before us claims that he was directly appointed to the post of 2nd class Marine Driver of Inland water transport Directorate. He claims that he was not promoted to such post. He claims that, he received pay benefits in terms of the appointment letter dated September 10, 1969. He superannuated from his service. Thereafter, pay was sought to be downgraded to his prejudice. He seeks relief with regard to pay that he was drawing pursuant to appointment to 2nd Class driver on September 10, 1969 and consequential retiral benefit with regard thereto.

State is represented.

The records demonstrate that, the writ petitioner was initially appointed in Inland Transport Department as a coal trimmer on December 25, 1964. He was later promoted to the post of driver on September 10, 1969 purely on temporary basis.

The writ petitioner superannuated on March 31, 2006.

By a letter dated May 5, 2006, the Senior Accounts Officer wrote to the Director, Inland Water Transport Directorate that, the pay of the writ petitioner should be revised as, he was not promoted to the post of 2nd Class driver.

By a letter dated July 18, 2006, the authorities directed the writ petitioner to refund the overdrawl amount. Aggrieved thereby, the writ petitioner approached the tribunal by way of OA 2827 of 2006

By the order dated June 25, 2008, the tribunal disposed of OA 2827 of 2006 by granting the writ petitioner protection from recovery of the overdrawl amount. The issue with regard to his claim of appointment to the post of 2nd Class driver was not considered by the tribunal.

Aggrieved by non-consideration of the issue with regard to his claim of appointment to the post of 2nd class driver, the writ petitioner approached the High Court by way of WP.ST 310 of 2009 which was disposed of on May 8, 2009.

By the order dated May 8, 2009, the High Court, directed the Director of Inland Water Transport Directorate to take a decision with regard to appointment of the writ petitioner to the post of 2nd Class driver, as claimed.

The Director, Inland Water Transport Directorate passed a reasoned order dated August 6, 2009 negating the claim of the writ petitioner.

Writ petitioner being aggrieved thereby, moved the tribunal with regard thereto which resulted in the impugned order.

The writ petitioner was initially appointed to the post of coal trimmer on December 25, 1964. He was later promoted purely on temporary basis to the post of driver on September 10, 1969.

Since the writ petitioner was initially appointed to the post of coal trimmer on December 25, 1964 and since the 2nd Class driver post, as noted in the reasoned order of the Director, Inland Water Transport Directorate dated August 6, 2009, is a temporary post, question of direct appointment of the writ petitioner to the post of 2nd Class driver does not arise.

The memorandum dated September 10, 1969, which the writ petitioner claims to be letter of appointment to the post of 2nd Class driver, specifies that the appointment of the writ petitioner was on purely temporary basis and was terminable at any time.

Writ petitioner claims pensionary benefits on the basis of the pay scale made available to the post of 2nd Class driver.

Since the writ petitioner was never appointed to the post of 2nd Class driver and since the promotion of the petitioner to such post was purely temporary basis, we are of the view that the Director, Inland Waterways Directorate was not incorrect in the reasoned order dated August 6, 2009 in not granting such reliefs to the writ petitioner. The tribunal did not find any fault with the reasoned order dated August 6, 2009.

In such circumstances, we find no reason to interfere with the impugned order.

WP.ST 349 of 2013 is disposed of accordingly.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

