

WP.ST 211 of 2016

***The State of West Bengal
Vs.
Sri Gautam Bose***

*Mr. Tapan Kumar Mukherjee, AGP
Mr. Pinaki Dhole,
Mr. Somenath Naskar, Advocates
... ... For the Petitioner/State*

*Mr. Sahasrangshu Bhattacharjee, Advocate
... ... For the Respondent*

The writ petition is directed against an order dated September 8, 2015 passed by the West Bengal Administrative Tribunal in OA 158 of 2014.

Learned senior advocate appearing for the writ petitioner submits that, the Tribunal erred in directing pay fixation of the private respondent on the basis of Rule 42(A)(5) of the West Bengal Service Rules Part-I on the private respondent joining the post as Assistant Engineer in Irrigation and Waterways Department. He refers to the averments made in paragraphs 15 and 16 of the affidavit-in-reply. He submits that, an engineer in the Irrigation and Waterways Department is not entitled to the grade pay which the petitioner drew at the time of his resignation with the West Bengal State Electricity Board (WBSEB) now, West Bengal State Electricity Development Corporation Limited (WBSEDCL).

Private respondent is represented.

The private respondent is an engineer. He was initially appointed as Assistant Engineer(U) under the WBSEB now WBSEDCL with effect from May 20, 1998.

He participated in a Public Service Commission selection process and was selected for the appointment to the post of Assistant Engineer (Mechanical and Electrical) in Irrigation and Waterways Directorate, Government of West Bengal. Petitioner tendered his resignation on April 4, 2005. Petitioner was released from his post on July 4, 2005. He joined the new post subsequently and was working therein. He applied for pay fixation which was denied. He, thereafter, approached the Tribunal by way of OA 158 of 2014 which was disposed of in his favour.

By the impugned order, the Tribunal directed pay fixation of the respondent in terms of Rule 42(A)(5) of the West Bengal Service Rules Part-I.

Such an exercise is yet to be undertaken. Rule 42(A)(5) of the West Bengal Service Rules Part-I envisages the scenario in which, pay parity will be granted to the incumbent. That exercise is required to be undertaken.

It is not the case of the writ petitioner herein that West Bengal Service Rule Part-I is not attracted so far as the private respondent is concerned. No other provision governing the service Rule is drawn attention of the Court to suggest that private respondent will be entitled to pay fixation in accordance with such provision.

In such circumstances, we find no merit in the present writ petition.

WP.ST 211 of 2016 is dismissed without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)

