

18-12-2023

ct no. 13

Sl. 2

sp

WPA 26644 of 2023

Kulamoni Das

-Versus-

The Kolkata Metropolitan Development Authority &
Ors.

**Mr. Kumar Jyoti Tewari,
Mr. Aniruddha Tewari**

..for the petitioner

**Mr. Naba Kumar Das,
Mr. Pathik Bandhu Banerjee**

...for the respondent nos. 1 to 7

1. Mr. Kumar Jyoti Tewari, learned counsel for the petitioner submits that despite an order dated January 14, 2015 passed in WP 38 (W) of 2015, the employer has not been able to complete disciplinary proceedings for unauthorized absence against the petitioner (Lorry Driver Mazdoor) within 6 months.
2. The proceedings themselves were for unauthorized absence from 2002 to 2009. The petitioner joined service pursuant to orders of this Court and worked till the superannuation in the year 2017.
3. This Court has carefully considered the entire records of the matter and the writ

petition. Heard counsel for the parties at length.

4. This Court is of the view that both in the interest of the employer as well as the employee, there must be a quietous put on this labour dispute.
5. In those circumstances, this court orders that the period of unauthorized absence from March 2, 2002 to November 9, 2009 shall be treated as dies non. There shall be no salary, employment benefits, increments, leave or any benefits for the said period payable to the petitioner. The said period shall also not be reckoned for length of service of the petitioner.
6. Based on the above, let terminal benefits to the petitioner be calculated and appropriate pension payment order be issued. The PPO shall be issued on the basis of last drawn pay. Gratuity in the facts of the case shall be paid only to the extent of 75%. Leave encashment excluding the aforesaid period (02.03.2002 to 09.11.2002) shall be paid to the petitioner.
7. All other benefits shall be paid as usual. The departmental proceedings against the petitioner shall stand concluded on the above terms.

8. With the aforesaid observations, the instant writ petition shall stand disposed of.
9. It is expected that the aforesaid terminal benefits be paid and the pension including arrear pension shall commence within a period of 3 months from date.
10. There shall be no order as to costs.
11. Urgent photostat certified copy of this judgment, if applied for, be given to the parties upon compliance of all formalities.

(Rajasekhar Mantha, J.)