

08 13.9.2023

Ct-08

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AST 116 of 2014
with
I.A No. AST 1 of 2014 (Old No. ASTA 79 of 2014)
CAN 2 of 2014 (Old No. ASTA 80 of 2014)

The State of West Bengal & Ors.
Vs.
Surya Sekhar Pal & Ors.

Ms. Tapati Samanta
... For the Appellants/State

1. Ms. Tapati Samanta, learned counsel representing the appellants, has submitted that the writ petitioner is not entitled to any relief in view of the judgment of a coordinate bench in ***State of West Bengal Vs. Chandra Bhusan Dwivedi***, reported in ***2019(3) CHN (CAL) 221***. Our attention is drawn to paragraphs 10 and 11 of the said judgment which are reproduced below:-

“10. The petitioner was pressing his claim on the basis of Rule 12(5) of ROPA 1998. All that the petitioner is required to satisfy is that clause had made him entitled to ask for two additional increments when the doctorate degree was awarded to him. In the present case, the convocation was held on December 15, 2006, by that time ROPA 1998 has ceased to be in operation. ROPA 2009 which later on came to be effective with effect from January 1, 2006 does not contain any such provision of law.

11. Rule 12(5) of ROPA 1998 entitles the holder of a doctorate degree to ask for the benefit of two additional increments from

*the date of convocation when the convocation was held ROPA 1998 had ceased to exist. Without a corresponding provision in the new ROPA a Division Bench of this Court by a judgment and order dated April 5, 2019 in the case of **State of West Bengal & Others vs. Goutam Ghosh and Others (FMA 2368 of 2015)** observed that since the Rule had ceased to exist on the day the degree was awarded the petitioner must be held to be ineligible to the benefit claimed by him under ROPA 1998.”*

2. It appears that the writ petitioner was qualified for the degree of Doctorate in Philosophy (Ph.D) on 8th October, 2010 and the convocation was held on 27th April, 2012. Even if we assume that the date of qualification for the degree can be taken into consideration even then in view of the fact that by that time ROPA 1990 had ceased to be in operation and ROPA 2009 which came later was made effective with retrospective effect from January 01, 2006 the reliefs could not have been extended to the petitioner. However, in absence of the petitioner, we do not wish to dispose of the appeal. We feel that the writ petitioner is required to be heard.

3. We direct the department to serve administrative notice upon the writ petitioner within one week from date with an intimation that this matter shall appear in the list after

three weeks.

4. In the event the writ petitioner is not represented on the adjourned date, we may dispose of the appeal on the basis of available records.

5. The matter stands adjourned for three weeks.

(Siddhartha Roy Chowdhury,J.)

(Soumen Sen, J.)

