

Ct.
No.
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akb

03.04
2023

W.P.A. 29969 of 2016

Nabin Chandra Nath
-Versus-
State of West Bengal & Ors.

Mr. Kalyan Kumar Panda
Mr. Nirmalya Dhara **...For the Petitioner**

Despite service of notice upon all the respondents on 17th March, 2023 and despite service of notice upon the learned Government Pleader on 24th March, 2023, there is no representation on behalf of the respondents.

As such, the writ petition is taken up for final hearing in absence of the respondents.

I have heard learned Counsel appearing for the petitioner.

The petitioner states that he was appointed as a librarian of Belut Harekrishna Konar Smriti Pathagar, Bankura on 24th March, 1981. This library was recognised as a Government Sponsored Rural Library on 11th February, 1982. Though the petitioner was appointed as a librarian in the library, the concerned authority vide Memo dated 9th October, 1986 recommended another candidate for the post of librarian of the aforesaid library.

Aggrieved by the Memo dated 9th October, 1986 the petitioner by preferring a writ petition being C.O. 14150 (W) of 1986 sought for direction upon the concerned respondents to approve his appointment as librarian in the said library with all benefits since 1982.

By an order dated 6th September, 1989 the writ petition preferred by the petitioner was allowed by a Co-

ordinate Bench directing the respondent authorities to approve the appointment of the petitioner as a librarian of the said library with all financial benefits since 1982.

As the concerned authority failed to comply with the Court's order, the petitioner filed a contempt application being C.R. 2995 (W) of 1996. While the contempt application was pending, the District Library Officer, issued appointment letter in favour of the petitioner vide a Memo dated 13th May, 1996.

The petitioner submits that at the time of final disposal of the contempt application, the learned Advocate who represented the petitioner gave wrong concession that the petition did not require any financial benefit towards the past salary save and accept from the date of his appointment, but all other service benefits should be given to him. However, this court directed that since the petitioner was appointed in the year 1996, no other service benefits could be given to him except qualifying period of service which could notional be fixed for other service benefits as he was previously working since 1981.

Thereafter, claiming all the service benefits since 1981 that is from the date of his initial appointment, the petitioner moved a writ petition being W.P. 13739 (W) of 2002. By order dated 3rd October, 2002, the writ petition was disposed of by a learned Co-ordinate Single Bench directing the Director of Library Services to consider and dispose of the representation made by the petitioner. By order dated 17th December, 2022, the Director of Library Services rejected the claim of the petitioner for financial benefits from 1981 considering the order dated 4th June, 1998 passed in C.R. 2995 (W) of 1991.

The petitioner retired from service on superannuation on 31st January, 2012 after rendering the uninterrupted service. Before he retired from service the petitioner made a representation on 15th December, 2011 to the District Library Officer, Bankura making appeal to him to allow the service benefits with notional fixation of pay to him with effect from 24th March, 1981 when he was initially appointed as a librarian. But without paying any heed to the representation made by the him, Pension Payment Order was issued in favour of the petitioner noting therein his last pay as Rs. 12,870/- instead of Rs. 16,820/- which ought to have been fixed if notional benefits were given to him as per Court's order.

Now, the petitioner by preferring this writ petition seeks direction upon the concerned respondents to treat his service with effect from 24th March, 1981 for the purpose of extending pensionary benefits to him on the basis of his last pay which will be calculated at Rs. 16,820/-.

As I find from the case record, the petitioner was initially appointed as librarian of Belut Harekrishna Konar Smriti Pathagar, Bankura on 24th March, 1981 and this library was recognised as Government Sponsored Rural Library with effect from 11th February, 1982. Since another candidate was appointed as a librarian in the said library in place of the petitioner vide Memo dated 9th October, 1986, the petitioner by preferring a writ petition being C.O. 14150 (W) of 1986 challenged this Memo. By order dated 6th September, 1989, the writ petition preferred by the petitioner was disposed of by a learned Single Bench whereby the concerned authority was directed to approve the service of the petitioner. Since the order passed by a Co-ordinate

Single Bench was not complied with, the petitioner filed a contempt application. Ultimately, by order dated 13th May, 1996 the petitioner was appointed as a librarian of the said library, namely Belut Harekrishna Konar Smriti Pathagar, Bankura in the Scale of Pay of Rs. 1040-1920 plus admissible allowances.

The petitioner retired from service on superannuation on 31st January, 2012. It is evident from the Pension Payment Order issued in favour of the petitioner that the pensionary benefits have been granted to the petitioner on the basis of the last pay of Rs. 12,870/- drawn by him. It is the contention of the petitioner that the learned Single Bench by the order dated 4th June, 1998 directed that no other service benefits could be given to the petitioner except qualifying period of service which could notionally be fixed for other service benefits as he was previously working since 1981.

Learned Counsel appearing for the petitioner submits that the observation and direction dated 4th June, 1998 of the learned Co-ordinate Single Judge in C.R. No. 2995 (W) of 1991 clearly indicate that the petitioner is entitled to get the service benefits for the service rendered by him since his joining in 1981.

Since the State respondents have chosen not to contest the writ petition, it will be deemed that the State respondents have nothing to controvert the averments as made in the writ petition.

Perusal of the order dated 4th June, 1998 passed by a learned Single Judge in C.R. 2995 (W) of 1991 shows in no uncertain terms that the petitioner be given all the service

benefits notionally with effect from the date of his service. This direction, in my view is to this effect that all the service benefits would be granted to the petitioner towards his terminal or pensionary benefits on superannuation.

A chart as to notional fixation of pay of the petitioner as annexed to the writ petition shows that at the time of his initial appointment on 24th March, 1981 his scale of pay was of Rs. 300/- and if notional benefits are given for the purpose of fixation of pay for terminal benefits, the last pay he was to draw on 1st July, 2011 was of Rs. 16,820/-.

I find that this chart relating to notional fixation of pay has been prepared by the petitioner in consonance with the observation and direction of the learned Co-ordinate Single Bench by order dated 4th June, 1998 in the aforesaid Civil Rule (C.R. 2995 (W) of 1991).

In view of the above, I find that the writ petition has merit to succeed and accordingly, the writ petition is disposed of by passing the following order.

The respondents are directed to issue a revised Pension Payment Order in favour of the petitioner noting therein his last pay as Rs. 16,820/- within eight weeks from the date of communication of this order. On re-fixation of his pay on his last pay of Rs. 16,820/-, if there be any arrear, the State respondents shall disburse such arrears to the petitioner within a period of six weeks after the issuance of the revised Pension Payment Order.

The respondents are also directed to pay interest at the rate of 6% per annum on the arrear pensionary benefits from the date from which the arrear pensionary benefits are

admissible to him till the final payment is made also within six weeks after the issuance of the revised Pension Payment Order.

With the aforesaid directions the writ petition stands disposed of.

There will be no order as to costs.

All parties may act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat copy of the order, if applied for, be supplied to the parties on priority basis on compliance of all necessary formalities.

(*Rabindranath Samanta, J.*)