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05.04.2023
SB
Ct. No. 2

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A. 3381 of 2022

Md. Hossain Ali
-versus-
The State of West Bengal & Ors.

Ms. Suman Sehanabis (Mondal)
Mr. Salok Sah
...For the Petitioner

Mr. Bikramaditya Ghosh
...For N.B.S.T.C.

Mr. Hirak Barman
Ms. Bedashruti Bose
... For the State

The petitioner claimed to have worked for the post of Driver (M.R.) and was subsequently brought to the regular establishment and then **retired on and from January 31, 2022.**

The petitioner claimed that, despite having an unblemished employment record, the petitioner had not received any of its retiral benefit except Provident Fund from its employer namely, the respondent no. 2.

Mr. Ghosh, learned counsel appearing on behalf of the respondent nos. 2 and 3 submitted that, only the benefit related to the Career Advancement Scheme had not been received by the petitioner and except that whatever was due and payable upon his retirement, the employer had paid.

Mr. Barman, learned counsel appearing on behalf of the respondent no. 1.

Considering the rival contentions of the parties and upon perusal of the materials on record, it appeared that the petitioner had also submitted a representation dated July 8, 2022 **(Annexure P-5 at page 21 to the writ petition)** before the respondent no. 3 which had not yet received for consideration of the employer.

To sub-serve justice, the respondent no. 3 is directed to consider the said representation dated July 8, 2022 submitted by the petitioner **(Annexure P-5 at page 21 to the writ petition)** upon giving atleast prior seven days notice to the petitioner and after giving an opportunity of hearing shall decide the issue by passing a reasoned order in accordance with law.

It is needless to mention that while considering the representation the submission made on behalf of the respondent nos. 2 and 3 as recorded above shall also be taken into account and verified from record.

The entire exercise as directed above shall be completed and carried out by the respondent no. 3 within a period of four weeks from the date of communication of this order. The respondent no. 3 then shall communicate the reasoned order to the petitioner within a further period of two weeks from the date of reasoned order to be passed.

In the event, the reasoned order goes in favour of the petitioner then the respondent nos. 2 and 3 and any other appropriate authority shall give effect to that in every respect and pay and disburse the amount due and payable to the petitioner forthwith but positively within a period of six weeks from the date of the said reasoned order to be passed.

It is made clear that this Court has not gone into the merit of the claim of the petitioner or the contention raised on behalf of the respondent nos. 2 and 3. Both the said parties shall be at liberty to urge whatever points they wish to urge before respondent no. 3 relying upon whatever records and documents whatever they wish to rely upon but shall not travel beyond the case made out in the writ petition.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

On the above terms this writ petition being **W.P.A. 3381 of 2022** stands disposed of, without any order as to costs.

(ANIRUDDHA ROY, J.)