

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE**

BEFORE:

The Hon'ble Justice RAJA BASU CHOWDHURY

WPO/1024/2016

**HIRAK BANERJEE
VS
THE STATE OF WEST BENGAL & ORS.**

For the Petitioner	:	Mr. Debdutta Basu, Advocate.
For the Respondent Corporation.	:	Mr. Niladri Bhattacharjee Adv. Ms. Deblina Chattaraj, Adv. Ms. Sristi Paul, Adv.
Heard on	:	26.04.2023.
Judgment on	:	26.04.2023.

RAJA BASU CHOWDHURY, J.:

1. The present writ application has been filed, *inter alia*, praying for a direction upon the respondents to promote the petitioner to the post of 'Treasurer' or to grant him the pay of the post of 'Treasurer' and to give him all consequential benefits including the arrear, difference of pay from 31st January, 2014 in terms of the letter dated 30th January, 2014.
2. The petitioner joined the respondent no.2 on 19th July 1982 as a 'Clerk'. His service in the respondent no.2 was regularized as per the

rules and norms of the company and he was promoted to the post of 'Junior Accounts Officer' in the year 2006. By a departmental office order dated 30th January 2014, the petitioner was directed to take charge of 'Treasury' on and from 31st January, 2014 (A.N.) and was also required to look after the 'Accounts Jobs' as may be allotted by the Chief Accounts Officer (In-charge).

3. While in service, the petitioner made a representation to the Managing Director of the respondent no.2 on 2nd May, 2016 requesting him either to promote the petitioner to the post of 'Treasurer' or to grant financial benefit as Treasurer with retrospective effect meaning thereby from the date he was entrusted with the duty to do the job of a Treasurer. Since the aforesaid representation was not adhered to, the petitioner filed a writ application which was registered as WP No. 499 of 2016. By an order dated 30th June, 2016, a Coordinate Bench of this Hon'ble Court taking into consideration the case made out by the petitioner, without going into the merits of the petitioner's claim, had disposed of the writ application by requesting the Managing Director of the Calcutta Tramways Company (1978) Limited, to consider the petitioner's representation in accordance with law, at least to the extent whether the petitioner can be given promotion prospectively under the existing service rules.

4. Pursuant to the aforesaid order, the Managing Director of the Calcutta Tramways Company (1978) Limited offered the petitioner a hearing on 21st July, 2016 and thereupon finally disposed of the petitioner's representation, by an order dated 5th October, 2016 by, *inter alia*, observing that the feeder post for promotion to the post of Treasurer is Assistant Treasurer as such there is no scope under the existing provisions to award the petitioner promotion to the post of 'Treasurer'.
5. Being aggrieved, the present writ application has been filed.
6. Mr. Basu, learned advocate, by drawing attention to the departmental order dated 30th January, 2014, submits that the petitioner was not only discharging the duties of 'Junior Accounts Officer' but was also entrusted with the duty of discharging the job of 'Treasurer'. He says notwithstanding the petitioner being entrusted with the duty of performing two separate jobs, the petitioner has only been paid for his substantive post and not for his additional duties. He says that the petitioner having discharged the duties and responsibilities of a 'Treasurer' in ordinary course ought to be paid the emoluments paid to a 'Treasurer'. He says the petitioner has a legal right to claim equal pay for equal work.
7. The respondents, in the instant case, have denied such benefit to the petitioner. On one hand, the respondents have not promoted the petitioner to the post of treasurer and on the other have denied financial

benefit to the petitioner. He says that the Managing Director by the order impugned while rejecting his claim for promotion did not taken into consideration that he was otherwise entitled to the difference of pay on account of discharging his duties in the post of a treasurer. He says that the petitioner has since been superannuated with effect from 31st December, 2016 and, as such, the respondents should be directed to disburse the differential pay on account of petitioner having discharged the duties as treasurer.

8. *Per contra*, Ms. Chattaraj, learned Advocate representing the Corporation submits that there is no irregularity on the part of the respondents in rejecting the petitioner's claim for promotion. He says that the Managing Director of the respondent no.2 in terms of the order passed by the Coordinate Bench of this Hon'ble Court after affording an opportunity of hearing to the petitioner has determined the petitioner's claim. The rules of the company do not permit promotion from the post of Junior Accounts officer to that of a treasurer. The feeder post for promotion to the post of Treasurer is Assistant Treasurer. The Managing Director cannot be faulted for rejecting the petitioner's claim. She submits that the petitioner cannot be entitled to relief in the given facts.
9. Heard learned Advocates for the respective parties and considered the materials on record. I find that in the year 2014, when the petitioner was discharging his duties as a Junior Accounts Officer by an office order

dated 31st January, 2014, consequent upon retirement of Sri Ram Krishna Banerjee, who was also a Junior Accounts Officer, the petitioner was entrusted with the duty and charge of treasury, in addition to his normal duties. As would be apparent from the office order, the aforesaid was only an additional charge. The petitioner was not promoted to the post of treasurer. The aforesaid office order, in my view, also cannot constitute a promotion. The petitioner, however, had made a representation to the Managing Director of the respondent no.2. Since such representation was not being considered, the petitioner had filed a writ application and by an order dated 30th June, 2016, this Hon'ble Court without going into the merit of the claim of the petitioner, had requested the Managing Director of the respondents to consider the petitioner's case for promotion, prospectively as per the existing rules. Records reveal that pursuant to the aforesaid order, the Managing Director of the respondents had considered the petitioner's case and had returned a finding that there is no scope under the existing provisions to award the petitioner with promotion to the post of treasurer, as the feeder post for promotion to the post of Treasurer is Assistant Treasurer. Mr. Basu, learned Advocate representing the petitioner, also could not demonstrate before this Court any provision which entitles a Junior Accounts officer to be directly promoted to the post of Treasurer.

10. In view of the aforesaid, the order passed by the Managing Director of the respondent no.2 cannot be faulted. The only other contentions raised by Mr. Basu is with regard to grant of financial benefit attached to the post of Treasurer. In my view, since the petitioner had not discharged his duties in the substantive post of a Treasurer, the petitioner cannot be entitled to pay scale of a Treasurer. The petitioner, thus, also cannot claim equal pay for equal work for having officiated in the post of the Treasurer.
11. Having regard to the aforesaid, the order passed by the Managing Director of the respondent no.2 cannot be said to be irregular. No case which entitles the petitioner to any additional benefit or equal pay for equal work has been made out. The writ application fails and is accordingly dismissed.
12. There shall be no order as to costs.
13. Urgent certified Photostat copy of this order if applied for be made available to the parties upon compliance of all formalities.

(RAJA BASU CHOWDHURY, J.)

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