

W.P.A. 6440 of 2011

**Md. Jafar Miah
Vs.
The State of West Bengal & Ors.**

Mr. Tulsidas Roy
Mr. Sakhawat Khandakar
Mr. Tapan Roy
Mr. Tirthankar Roy
...for the petitioner

Mr. D. K. Sungupta
Mr. Arnab Roy
Ms. Sweta Saha
Ms. Farhin Mustuque
...for the respondent nos. 3 to 6

Mr. Ankit Sureka
Mr. Biplab Das
...for Registrar of Cooperative Societies

Mr. P.K. Roy
Mr. Asis Dutta
...for the State

Affidavit-of-service filed on behalf of the petitioner
is taken on record.

Affidavit-in-opposition has been filed on behalf of
Coachbehar Wholesale Consumers Cooperative Society
Limited (hereinafter referred as the said society) and the
same is taken on record.

The petitioner was a driver of the said society who
was directed to remain attached to the Samabayika Self
Service Unit as Floor Supervisor until further order with
effect from 1st April, 2006 as it emanates from the order
of the Chief Executive Officer dated 31st March, 2006.

The grievance of the petitioner is failure on the part
of the said society to sanction higher scale of pay for his

promotion from driver to floor supervisor and deduction from salary which was made from July 2006 to 31st December, 2010 wrongly for which petitioner prayed for refund. It has been submitted that petitioner has retired in the meantime.

Said society is represented by Mr. D.K. Sengupta, learned advocate who submits that there is no difference in scale of pay so far driver and floor supervisor are concerned. Therefore, according to the said society petitioner is not entitled to receive the benefit of higher scale of pay.

Having considered the submissions made on behalf of the parties and on perusal of the relevant materials available on record it appears that the issue needs to be treated as a dispute in terms of Section 102 of the West Bengal Cooperative Societies Act, 2006 which permits the petitioner to lodge a dispute before the concerned Registrar of Cooperative Societies for settlement. However, it appears that such dispute needs to be instituted before the Registrar within 3 (three) months from the date of accrual of cause of action. Section 102(3) also empowers the Registrar to condone delay in presenting the dispute case by the aggrieved party in appropriate case.

In view of aforesaid statutory provisions leave is granted to the petitioner to file a dispute case before the concerned Registrar of Cooperative Societies within

fortnight from date and in the event such dispute case is filed the Registrar in his turn shall decide the dispute as expeditiously as possible but not later than 4 (four) months from the date of filing the dispute case without taking the point of limitation in view of filing of writ petition by the petitioner contemporaneously.

With the above directions, the writ petition stands disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)