

12.08.2024
Item No.04
Court No.11
Avijit Mitra

WP.ST 75 of 2024

In re: An application under Article 226 of the Constitution of India;

And

Gopinath Banerjee & ors.

- versus -

State of West Bengal & ors.

Mr. Pradip Kumar Mondal,
Mr. Arka Mondal

....for the petitioners

Ms. Sonal Sinha,
Mr. Avishek Prasad

...for the State respondents

This writ petition challenges the order dated January 24, 2024, passed in OA 619 of 2019. In that order, after recording the contentions of the respective parties, the learned Tribunal observed that the matter involved various points of law and required interpretation of several judgments pronounced the Hon'ble Apex Court. Therefore, the Tribunal decided that the matter should be heard by a Bench comprising two members, one Judicial and one Administrative.

Mr. Mondal, learned advocate, representing the petitioners, submits that the petitioners are casual workers engaged in the office of the District Magistrate, Birbhum. According to the circular dated May 25, 2009, their pay was fixed in the pay band of Rs. 4,900-16,200. Subsequently, the District Magistrate (in short, the DM) determined that the petitioners had overdrawn an amount of Rs. 2,54,244 each and recovered this amount from their salaries. Challenging this

action of the DM, Birbhum, the petitioners have approached the learned Tribunal.

He argues that in the order challenged in the writ petition, the learned Tribunal concluded that the matter should be decided by a Division Bench and accordingly adjourned the matter to September 11, 2024. He submits that, currently, the learned Tribunal is functioning with only one Administrative Member, and there is no immediate prospect of appointing a Judicial Member. As a result, the petitioners may be deprived of their right to speedy justice for an indefinite period.

Ms. Sinha, learned advocate appearing for the State respondents vehemently opposes this prayer, and argues that such issue should be raised before the learned Tribunal on the returnable date i.e. on September 11, 2024.

Heard the learned advocates appearing for the respective parties and perused the materials on record.

Needless to observe, the State must provide an effective adjudicatory mechanism to ensure that litigants receive transparent, objective, and speedy justice. The prefatory words of the Administrative Tribunal Act, 1985 suggest that Administrative Tribunals were established under Article 323A of the Constitution of India to adjudicate disputes and complaints related to recruitment and service conditions of persons appointed to public services or posts connected with the Union, any State, local authority, or any corporation or society owned or controlled by the Government. Therefore, the State must ensure that these Tribunals operate effectively with proper infrastructure and members, failing which the litigants will

suffer the most. The State must conduct itself with high probity and candor and ensure that the litigants do not succumb to the procedural rigmarole.

As per notification dated 23rd November, 2022 issued by the Registrar, West Bengal Administrative Tribunal, the issue involving recovery of amount from pay and allowances can be addressed and adjudicated by the single Member of the learned Tribunal.

In a recent Public Interest litigation (WPA(P) 125 of 2024), the Hon'ble Division Bench, presided over by the Hon'ble Chief Justice observed that the appointment process for the Chairman and the Member of the learned Tribunal is ongoing. Taking note of the fact that the several matter involving minor issues have not been taken up by the Tribunal, the Hon'ble Division Bench directed the learned Tribunal, which is currently operating with a Single Member, to hear out any application that may be filed before it and not to adjourn any application to be heard by a Bench comprising of Two Members.

Record would reveal that the learned Single Member the heard the matter on 10th January, 2024 and reserved the order.

In view of the above, the writ petition is disposed of directing the learned Single Member to dispose of the original application on merits, as expeditiously as possible, preferably within a period of 8(eight) weeks from the date of communication of this order to the learned Registrar of the learned Tribunal, without granting any unnecessary adjournments to either of the parties.

With the above observations and directions, the present writ petition is disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Partha Sarathi Chatterjee,J.) (Tapabrata Chakraborty, J.)