

10.01.2024
Item No.01
Court No.11
Avijit Mitra

WPCT 85 of 2010

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

The Union of India & ors.
- Versus -
Central Board for Workers Education Officers'
Association (CBWE) & ors.
with
IA No.CAN 1 of 2010 (Old No.CAN 3818 of 2010)
with
IA No.CAN 4 of 2012 (Old No.CAN 5418 of 2012)
with
IA No.CAN 5 of 2013 (Old No.CAN 291 of 2013)
with
IA No.CAN 7 of 2013 (Old No.CAN 5311 of 2013)
with
IA No.CAN 8 of 2013 (Old No.CAN 9867 of 2013)
with
IA No.CAN 9 of 2014 (Old No.CAN 5057 of 2014)
with
IA No.CAN 10 of 2014 (Old No.CAN 10055 of 2014)
with
IA No.CAN 11 of 2014 (Old No.CAN 10118 of 2014)
with
IA No.CAN 12 of 2022

Mr. Ashok Kumar Chakraborty, Ld. A.S.G.,
Mr. Kumarjyoti Tiwari,
Ms. Susmita Saha Dutta

...for the petitioners

Mr. Prosit Deb,
Mr. Avirup Mitra

...for the respondent in CAN 12 of 2022

Mr. Soumya Majumder,
Mr. Manoj Ranjan Barik,
Mr. Barun Chatterjee,
Mr. Anirban Sarkar

...for the respondent nos. 1 and 2

The present writ petition has been preferred
challenging an order dated 27th September, 2007

passed by the learned Tribunal in the original application being OA No.566 of 2007.

Records reveal that during pendency of the writ petition an application being IA No.CAN 4 of 2012 (Old No.CAN 5418 of 2012) was preferred by the retired employees of Central Board for Workers Education (in short, CBWE) praying for addition of party and for extension of the benefits on the basis of a memo dated 28th May, 2008 issued by the Director, CBWE. The said application was allowed by an order dated 7th September, 2012 directing that the administrative order of 28th May, 2008 be made applicable on retired employees as well and that the payment shall be made by the authority which is implementing the said administrative order. Subsequently, several applications were filed by the retired employees of CBWE claiming similar relief including an application being CAN 4818 of 2013 which was also disposed of extending the same benefits by an order dated 17th December, 2013. Thereafter on 21st June, 2022 an application being IA No. CAN 12 of 2022 was preferred by another set of retired employees seeking addition and extension of the benefits in terms of the memo dated 28th May, 2008. By an order dated 12th August, 2022, the applicants in the application being IA No. CAN 12 of 2022 were directed to be impleaded as party respondents observing that the prayer for extension of

benefits of the memo dated 28th May, 2008 would be considered along with the writ petition.

Mr. Ashok Kumar Chakraborty, learned ASG, assisted by Mr. Tiwari, learned advocate, appearing for the petitioners submits that the recommendations of the Central Pay Commission are not directly applicable to the employees of CBWE and that the suggestions given by the Dasgupta Committee regarding pay security of the CBWE employees, was subject to acceptance of the government. The learned Tribunal erroneously proceeded on the basis that there had been an arbitrary fixation of pay scales inasmuch as the pay scales of Education Officer of CBWE cannot be compared with identical posts in other departments.

Mr. Majumder, learned advocate appearing for the respondent nos. 1 and 2, denies and disputes the contention of the petitioners and submits that the present writ petition has been preferred about three years after the order was passed by the learned Tribunal and even prior to filing of the writ petition, the memo dated 28th May, 2008 was issued. However, all the benefits in terms of the order of the learned Tribunal has not been granted by the administrative order dated 28th May, 2008.

In reply, Mr. Chakraborty denies such contention of Mr. Majumder and submits that about fifteen years after issuance of the memo dated 28th

May, 2008, the respondents cannot agitate an issue of non-compliance of the learned Tribunal's order.

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

The memo dated 28th May, 2008 clearly states that the same had been issued in compliance with the order of the learned Tribunal dated 27th September, 2007 and as per approval of the Government of India, Ministry of Labour and Employment, New Delhi contained in their letter no.C-18011/7/2007-ESA(WE) dated 28th May, 2008. As the order of the learned Tribunal has already been complied with by issuing the memo dated 28th May, 2008, the present writ petition has become infructuous.

The applicants in the application IA No. CAN 12 of 2022 being the retired employees of CBWE, cannot also be denied all the benefits as extended in terms of the memo dated 28th May, 2008 moreso when similar relief had been granted in applications filed by other sets of retired employees, as would be explicit from the orders dated 7th September, 2012 and 17th December, 2013. The memo dated 28th May, 2008 would also be applicable to the applicants and payments should be made by the appropriate authority in their favour in implementation of the order dated 28th May, 2008.

With the above observations and directions, the writ petition is dismissed and all the pending applications including the application being IA No.CAN 12 of 2022 are disposed of.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(V. M. Velumani, J.) (Tapabrata Chakraborty, J.)