

WPST 89 of 2024
(Amit Gupta Vs. The State of West
Bengal & Ors.)

Mr. Pradip Kumar Tarafder
Mr. Sambuddha Dutta

..... For the petitioner

Mr. Tapan Kumar Mukherjee, Ld. AGP
Mr. Somnath Naskar

.... For the State

Mr. Suman Basu

.... For the respondent no. 6

The present writ petition has been preferred challenging, *inter alia*, an order dated 7th March, 2024 passed by the learned Tribunal in the original application being OA No. 454 of 2023.

Records reveal that the original application was initially heard by the learned Single Member of the Tribunal on 7th August, 2023 and it was observed, *inter alia*, that as the matter involved various points of law and since a similar matter was heard and order was passed by a Bench comprising of two Members (Judicial and Administrative), the present matter should also be placed before a Bench comprising of two Members on 9th January, 2024 under the heading '*Admission Hearing*'. Thereafter, the matter again appeared before the learned Single Member on 9th January, 2024. Upon hearing the learned advocates appearing for the respective parties, the matter was admitted observing, *inter alia*, as follows:-

'Though by an order of this Tribunal dated 07.08.2023, this matter was to be heard by a Division Bench, but since no such Bench is

available today, submission of Mr. Dutta is that this matter be heard by this single Bench. Such prayer has not been opposed by Mr. Mondal, learned counsel on behalf of the state respondent.'

Thereafter, the matter again appeared before the learned Single Member on 7th March, 2024 and the same was directed to appear on 19th September, 2024 under the heading '*Hearing*' before a Bench comprising of two Members observing, *inter alia*, that '*since this matter relates to CAS benefit and since such matter involves various points of law*'.

Mr. Tarafdar, learned advocate appearing for the petitioner submits that it would be explicit from the earlier order dated 9th January, 2024 that the learned Single Member with the consent of the parties heard the matter sitting singly and admitted the same though by the earlier order dated 7th August, 2023 it was directed that the matter needs to be heard by a Division Bench. Surprisingly thereafter by the impugned order dated 7th March, 2024, the learned Single Member again directed that the matter should be heard by a Division Bench without any cogent reason.

He argues that the petitioner is a retired employee and his pensionary benefits have been withheld though similarly circumstanced persons have been granted identical benefits. Presently, the learned Tribunal is functioning with a Single Member and there is also no possibility towards constitution of a Division Bench in the near future. In the said conspectus and when the

respondents had no objection if the matter is heard by the learned Single Member, the matter ought to have been fixed for final hearing before the learned Single Bench.

Placing reliance upon a notification dated 23rd November, 2022, Mr. Tarafder submits that the matter comes within the classification '*Pension, Retiral Benefit, continuation of Past Services and allied matters/Death Benefit*' and as such the same can be heard by the learned Single Bench.

Mr. Mukherjee, learned Additional Government Pleader appearing for the State, in his usual fairness, has placed before this Court an order dated 25th April, 2024 passed by a Bench presided over by the Hon'ble Chief Justice in a Public Interest Litigation observing *inter alia* that '*...the applications which are filed need not be adjourned to be heard by a Bench comprising of Two Members...*'. Such observation was made taking note of an order passed in an earlier writ petition being WPA 21973 of 2023. Let the said order, as produced, be kept on record.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Access to justice is a fundamental right and the State must provide an effective adjudicatory mechanism and such process of adjudication must be accessible and

speedy. However, the West Bengal Administrative Tribunal is functioning with a Single Member for a substantial period of time and there is also no possibility towards constitution of a Bench of two Members (Judicial and Administrative) in the near future. As a consequence, thereof, the litigants had been the worst sufferers. The State must conduct itself with high probity and candour and ensure that the litigants do not succumb to the procedural rigmarole.

The original application pertains to disbursement of pensionary benefits, arrear salaries and benefits under the modified Career Advancement Scheme. The notification dated 23rd November, 2022, *inter alia*, provides that pensionary benefits arising out of past services and allied matters can be heard by a Single Member. From the records it is explicit that prior to issuance of the order impugned, the learned Single Member heard the matter on merits and admitted the same and fixed a returnable date for hearing. After such admission, the learned Single Member ought not to have mechanically and without any justifiable reason directed placement of the same for hearing before a Bench comprising of two Members.

In the said conspectus and in the light of the order dated 25th April, 2024 passed by the Bench presided over by the Hon'ble Chief Justice in WPA(P)/125/2024, the learned Single Member is directed to hear and dispose of

the original application on merits, as expeditiously as possible and preferably within a period of 8 (eight) weeks from the date of communication of this order, without granting any unnecessary adjournment to either of the parties.

With the above observations and directions, the writ petition is disposed of setting aside the order dated 7th March, 2024 passed by the learned Tribunal in the original application being OA No. 454 of 2023.

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

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

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