

16.04.2024

Sl. No.07.

Ct. No. 35

s.g.

WPA/11394/2018

Manindra Nath Bhattacharya & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Tapojit Dey

....for the petitioner.

Mr. Pinaki Dhole,

Ms. Debdooti Dutta

....for the State.

Ms. Sanghamitra Nandy,

Mr. Subhra Nag

....for the W.B. Khadi & Vill. Industries Board.

1. The writ petitioners are retirees, who have been working with the respondent no.3/West Bengal Khadi and Village Industries Board. The writ petitioners have retired in the year 2010, excepting one of them, who has retired in the year 2009. This petition has been preferred by them to challenge the impugned order dated 11th April, 2015 of the Additional Chief Secretary to the Government of West Bengal, Finance Department. They are aggrieved that the benefit under terms of the Government notification dated 31st August, 2009 has been rejected by the State Authority to them, vide the said impugned order on unreasonable and unlawful grounds.
2. The writ petitioners have claimed retiral benefits under the provision of the afore-stated Government order dated 31st August, 2009, with effect from 25th February, 2009. Since the same has been rejected to them writ petitioners

have come up before this Court with the present case to seek the relief inter alia that the impugned order of the Additional Chief Secretary, Finance Department dated 11th April 2018 may be set aside, that the pensionary benefits may be granted to the writ petitioner with effect from 25th February, 2009.

3. The issue here is relating to grant of the benefit of full pension after completion of 20 years of qualifying service by the present writ petitioners, in terms of the Government Notification No. 1811 -MSET (1) dated 31st August, 2009.
4. Mr. Bari is appearing for the writ petitioner . By referring to the West Bengal Khadi and Village Industries Board, Act 1959, it has been submitted by him, that as per Section 9 (2) there of, the benefits as admissible to the similar category of State Government employees, would also be payable to the present writ petitioner in terms of the statutory provision as above. He says that as per Government order dated 31st August, 2009 the writ petitioners would have been entitled to the benefit of full pension after completion of 20 years of their service.
5. However, he has expressed grievance on behalf of his clients as regards the memo No. 1501/MSET (1) 2K-8/2001 dated 30th September, 2010. According to him the same

has substantially curtailed the benefit advanced to the pensioners earlier, vide memo dated 31st August, 2009. He says that by doing so the respective Department has effected discrimination within the class, which is not only derogatory and prejudicial to the interest of the writ petitioner but also violated guaranteed constitutional rights of equal treatment amongst the class.

6. He has also expressed grievance as regards the impugned order dated 11th April, 2008, for the reasons that in the same, the respective authority has found the benefit under the above-stated G.O. dated 21st August, 2009 not to be applicable in case of petitioners, on the ground that they are being employed by the respondent Board/ respondent no.3. He says that the writ petitioners are aggrieved that the same is in total disregard of the statutory provision as mentioned above as well as the guaranteed constitutional rights of the writ petitioners. He seeks adequate remedy for his clients.
7. Ms. Nandy is appearing on behalf of the respondent no.3/Board. She submitted in Court, the written instructions , received from the said respondent. On the basis of the same she has submitted that the writ petitioners, not being the employee of the State Government, could not be eligible to be covered under the said Government order dated 31st August, 2009. So far as the impugned order is concerned she

supported the stand of the respective authority as mentioned therein.

8. Mr. Dhole is appearing for the State respondent. He says that the Government Notification, as above, is required to be adopted by any undertaking, in order to the same to be effective in case of their employees. He says further that since the writ petitioners are not employees under the State Government they would not naturally come under the purview of the beneficial provision of the said notification of August, 2009. That the same would only be applicable, in case of adoption thereof, by the Board and with effect from the date of such adoption. According to the respondent Board as well as the State, the writ petition may be dismissed.
9. Admittedly, the writ petitioners have been the employees of the West Bengal Khadi and Village Industries Board. After promulgation of the Government Notification dated 31st August, 2009, the same has been made applicable for the employees of the Board with effect from 31st September, 2010.
10. The Court does not find any impropriety in the impugned order as above, in so far as since the date of adoption of the notification dated 31st August, 2009, on 31st September, 2010, the respondent/Board has extended benefit thereunder, to the eligible incumbents, prospectively. Admittedly, the writ petitioners have retired much prior to the said date.

Hence, the benefit under the notification dated 31st August, 2009, shall not be applicable, in their case. The allegations of impropriety of action undertaken by the respondent Board, would not be tenable.

11. On the ground as stated above this Court does not find any necessity to interfere into the impugned order of the respondent authority dated the 11th April, 2018 and hence the writ petition is dismissed.

(Rai Chattopadhyay, J.)