

13.08.2024
sayandeep
Sl. No. 43
Ct. No. 08

CPAN 890 of 2023
in
WP.ST 10 of 2023

Dr. Partha Sarathi Giri
Vs.
The State of West Bengal & ors.

Mr. Mukul Lahiri
Mr. Anindya Lahiri
Mr. Samrat Dey Paul
Mr. Anish Chakraborty

..... for the applicant

Mr. Rajarshi Basu
Anirban Dutta

.... for the alleged contemnors

The writ petition (WP.ST 10 of 2023) was filed before this Court assailing an order of the Tribunal by which an interim relief was declined. The Tribunal was approached by the petitioner for re-fixation of the salary as well as the annual increment accrued to the petitioner which was withheld for a specified period of time and also to pay all retiral benefits including the pension on the date of superannuation of the petitioner.

Since the interim order was refused, the writ petition was disposed of by directing the authorities to pay the pension to the petitioner as per the last pay drawn. The contempt application was taken out as the authority pretending to comply the said order, in fact, acted in flagrant violation thereof in sanctioning and/or disbursing the provisional pension vide order dated 19.04.2023. The said order revealed that the authorities, in fact, paid the provisional pension and not the full pension which is apparently against the

spirit and sole of the order passed by this Court while disposing of the said writ petition.

Mr. Lahiri, learned senior advocate appearing for the petitioner, fairly submits that amidst the pendency of the contempt application, the authorities have rectified the defects and, in fact, paid the full pension, meaning thereby, the order dated 19.04.2023 stood revised upon the payment of full pension.

However, he raised an issue that the quantum of the pension is dependent upon the claim of increment which is the subject matter of the Tribunal application and, therefore, the same is required to be decided by the Tribunal. The payment of the pension on the basis of the last pay drawn shall be dependent upon the final decision is to be taken by the Tribunal.

Obviously, the quantum of the pension which is primarily to be determined on the basis of the last pay drawn shall further be revised, in the event, the last pay drawn is revised by the authorities and, therefore, there cannot be any surmounting apprehension in the mind of the petitioner that the observation of this Court would foreclose all such claims raised in the said Tribunal application. The Tribunal application is still pending where the larger issue is to be decided and, therefore, we do not intend to make any further comment which would impact the final decision.

It is a sordid state of affairs that till date the State Administrative Tribunal is functioning with one

Administrative Member. No attempt has been made to appoint the other members as well as the Chairman. The resultant effect of such apathetic attitude from the Government is the explosion of the docket of the High Court for the simple reason that a person cannot be rendered remediless.

The time has come that the purpose and the object underlying the establishment of the Tribunal should not remain farcical but must be adequately manned by the persons duly appointed by the Government to impart justice to the seekers thereof.

Though we do not agree with the apprehension shown by Mr. Lahiri that the amount of pension credited to the account of his client if utilized would tantamount to acquiescence or waiver of right as such payment is made in terms of the interim order passed by this Court; However, for abundant precaution we hereby made clear that mere utilization of the pension amount shall not act detrimental to the interest of the petitioner nor shall cause any prejudice to the claim made before the Tribunal.

Accordingly, the contempt application is hereby dismissed.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)