08.07.2024
Item No.04
Court No.11
Avijit Mitra

WP.ST 136 of 2024

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

And

Tulu Debnath
- versus -
The State of West Bengal & ors.

Mr. Srikanta Dutta,
Ms. Rituparna Sarkar Dutta
… for the petitioner
Mr. Tapan Kumar Mukherjee, Ld. A.G.P.,
Mr. Alok Banerjee
…for the State respondents
Mr. Sajal Kanti Bhattacharyya,
Mr. S. Barman
…for the respondent no.3

Affidavit-of-service be filed by the petitioner be kept on record.

The present writ petition has been preferred by the petitioner challenging an order dated 9th April, 2024 passed by the learned Tribunal in the original application (hereinafter referred to as OA), being OA 126 of 2024 and praying for issuance of necessary direction upon the respondents to disburse the pensionary benefits. By the said order, the learned Tribunal directed the parties to exchange their affidavits and fixed the matter for further consideration on 14th August, 2024.

The petitioner's case is that she retired from the post of Office Superintendent in the office of the Rent Controller, Kolkata, City Civil Court on 31st December, 2023. Prior thereto, responding to a notice dated 8th December, 2022 issued by the respondent no. 4, she filled up the relevant forms and submitted the same in the office. Thereafter, by memo dated 23rd November, 2023, the respondent no. 4 forwarded all the pension related documents to the Accounts Officer A.G. (A&E), West Bengal for verification and issuance of the Pension Payment Order (in short, PPO). Subsequent thereto, the Senior Accounts Officer issued a memo dated 8th January, 2024 to the respondent no. 4 seeking certain clarifications. The respondents thereafter maintained a deceptive silence and no further steps were taken towards disbursement of the pensionary benefits. Aggrieved thereby, the petitioner preferred the OA 126 of 2024.

Mr. Dutta, learned advocate appearing for the petitioner submits that no vigilance case or departmental proceeding or criminal proceeding is pending against the petitioner and as such there can be no reason towards denial of disbursement of the full pensionary benefits including gratuity. The pendency of OA 520 of 2022 preferred by the petitioner, as referred to by the respondent no. 4 in the letter dated 23rd November, 2023, has no nexus with the petitioner's claim towards disbursement of pensionary benefits. The said OA 520 of 2022 had been preferred by the petitioner claiming promotional benefits.

Mr. Bhattacharyya, learned advocate appearing for the respondent no.3 has placed before us a report on admissibility of pensionary benefits of the petitioner issued by the Senior Accounts Officer to the respondent no. 4 *vide* memo dated 4^{th} July, 2024. Let the same be kept on record.

He submits that in spite of issuance of the memoranda dated 8^{th} January, 2024 and 4^{th} July, 2024, the respondent no. 4 has not furnished the necessary clarifications and has not resubmitted the pension related documents of the petitioner and as such the respondent no. 3 is not in any manner responsible for the delay towards disbursement of the pensionary benefits.

Mr. Mukherjee, learned Additional Government Pleader appearing for the State respondents submits that the full pensionary benefits cannot be disbursed since the issue pertaining to promotion and seniority of the petitioner, as claimed, is pending adjudication before the learned Tribunal and in the said conspectus only disbursement of provisional pension in favour of the petitioner may be considered.

In reply, Mr. Dutta submits that question of disbursement of provisional pension would have occasioned had there been any pending judicial/departmental proceeding against the petitioner.

We have heard the learned advocates appearing for the respective parties. Considering the materials on record, the nature of allegations and the reliefs prayed for, the OA and the writ petition are taken up for final hearing, with the consent of the parties.

In the memo dated 4th July, 2024, the Senior Accounts Officer had clearly stated that the petitioner is entitled to retirement gratuity of Rs. 12,00,000/- and pension @ of Rs. 37,150/- per month with effect from 1st January, 2024.

The clarifications sought for by the memoranda dated 8th January, 2024 and 4th July, 2024 relate to pendency of the OA 520 of 2022 preferred by the petitioner. However, pendency of the said OA pertaining to promotion and seniority, as claimed by the petitioner, cannot stand in the way towards disbursement of her full pensionary benefits.

Indisputably, no vigilance case or departmental proceeding or criminal proceeding is pending against the petitioner. In view thereof, the respondents cannot deny issuance of the PPO and disbursement of full pensionary benefits in favour of the petitioner.

Accordingly, subject to compliance of necessary formalities by the petitioner, the respondent no.4 shall resubmit all the pension related documents of the petitioner immediately to the Senior Accounts Officer so that all necessary follow up steps can be taken by the said officer and the respondent no.3 towards issuance of PPO and disbursement of full pensionary benefits of the petitioner.

The above exercise shall be completed by the respondents positively within a period of four weeks from the date of communication of this order.

Needless to observe, the issuance of the PPO as well as disbursement of the full pensionary benefits by the respondents and the acceptance of the same by the petitioner would be subject to the result of the OA 520 of 2022 and without prejudice to the rights and contentions of the respective parties in the same.

With the above observations and directions, the OA and the writ petition are 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.)**