

10.09.2024
Item No.44
Court No.11
Avijit Mitra

WP.ST 176 of 2024

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

Debabrata Singha
- versus -
State of West Bengal & ors.

Mr. Bikash Ranjan Neogi,
Ms. Ananya Neogi
....for the petitioner
Mr. Tapan Kumar Mukherjee, Ld. A.G.P.,
Mr. Somnath Naskar
...for the State

This writ petition has been preferred seeking a directive to the learned Tribunal to expedite the disposal of the original application (in short, OA), being OA 358 of 2020.

Mr. Neogi, learned advocate representing the petitioner, submits that the petitioner began his career as a General Duty Assistant in the office of the Chief Medical Officer of Health, 24 Parganas. Subsequently, a disciplinary proceeding was initiated against him, and upon its conclusion, he was terminated from his service. The petitioner reached the age of superannuation in July 2023. Mr. Neogi further submits that the petitioner approached the learned Tribunal with OA No. 358 of 2020, to challenge the justification for his termination and to seek an order for release of his service benefits.

Mr. Neogi submits that the original application has been pending since 2020, and after nearly four years, the matter has been directed to be placed before the Division Bench on

December 10, 2024. He further submits that the petitioner is being deprived of his retirement benefits and is facing acute financial hardship. He prays for a directive to the learned Single Member to dispose of the OA expeditiously and without any unnecessary delay.

Mr. Mukherjee, learned Additional Government Pleader appearing for the State respondents, in his usual fairness, has presented an order dated April 25, 2024, passed by a Bench presided over by the Hon'ble Chief Justice in a Public Interest Litigation. The order observes, inter alia, that applications filed need not be adjourned to be heard by a Bench comprising two members. This observation was made taking note of an order passed in an earlier writ petition, WPA 21973 of 2023. Let the said order, as produced, be kept on record.

Heard the learned advocate appearing for the respective parties and perused the materials on record.

Access to justice is a fundamental right, and the State must provide an effective adjudicatory mechanism to ensure objective and speedy justice. The West Bengal Administrative Tribunal has been functioning with a single member for a substantial period, with no imminent prospect of constituting a Bench of two members (Judicial and Administrative). As a result, litigants are suffering. The State must act with high probity and candor to ensure that litigants are not subjected to procedural rigmarole.

Records would reveal that the Hon'ble Supreme Court intervened in this matter while dealing with the Writ Petition (S) Civil No(s). 185 of 2023 and the Hon'ble Apex Court disposed of

the writ petition by an order dated 24.02.2023, which is quoted as follows:

“Having heard learned counsel for the parties and having perused the material placed on record, we are not inclined to entertain this petition, particularly when it is noticed that O.A. No.358/2020 is pending before the West Bengal Administrative Tribunal, Kolkata.

However, in the facts and circumstances of the case, we deem it appropriate to express our hope and trust that if the petitioner makes an appropriate request for early consideration of the pending petition, the Tribunal shall give such a request due consideration and assign reasonable priority to the matter.

This petition under Article 32 of the Constitution of India stands dismissed at this stage, but subject to the observations foregoing.”

However, in response to our query, Mr. Neogi cannot recall whether the order of the Hon’ble Apex Court was brought to the attention of the learned Single Member of the Tribunal.

Admittedly, this case relating to a disciplinary proceedings and payment of service-related benefits. According to the notification issued by the officiating Chairman of the learned Tribunal on February 23, 2022, the learned Single Member of the learned Tribunal is authorized to handle the cases related to disciplinary proceedings, payment of service benefits, and retirement benefits for employees of the State Government.

In such conspectus, we dispose of the writ petition, granting liberty to the petitioner to file an application for preponement of the hearing date of the OA before the learned Single Member, along with a copy of the order of the Hon’ble Apex Court within two weeks from date.

If such an application is filed, we hope and trust that the learned Tribunal, with due regard to the observations made by the Hon’ble Apex Court in Writ Petition (S) Civil No(s). 185 of 2023,

shall advance the hearing date and take a sincere endeavour to dispose of the original application as expeditiously as possible, without granting unnecessary adjournments to either of the parties.

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.)