

16.12.2024

**Sl. No. 32
Ct. No. 23
Srimanta
M/L**

WPA/23948/2024

**Shri Bimal Chandra Das
-Vs.-
The Union of India & Ors.**

Mr. Chittapriya Ghosh,
Mr. Sabyasachi Roy Chowdhury,
Ms. Priyanka Saha,
Ms. Maitrayee Chatterjee

... for the petitioner.

Mr. Rabindra Nath Bag,
Mr. Tirtha Pati Acharyya

...for the respondents.

The petitioner claims that the petitioner was promoted as an Inspector in the Railway Protection Force (in short, RPF) on ad hoc basis at Raipur with effect from 27th February, 2012 and the petitioner retired from the service on attaining the age of superannuation with effect from 31st January, 2013. The petitioner says that his last drawn pay has not been correctly fixed by the authorities, as a consequence whereof, the petitioner has received his retiral benefits to a lesser extent than the petitioner otherwise could have received. The pension amount is also less. The petitioner had made several representations. It appears from the record that one of such representations dated 19th May, 2022 was disposed of by the Assistant Finance Manager on behalf of Senior Divisional Finance Manager, South East Central Railway, Raipur by an order dated 29th

July, 2022. On a perusal of the said order it appears that the petitioner was promoted as the Inspector on ad hoc basis on 27th February, 2012 and continued as such ad hoc Inspector till 30th January, 2012. The petitioner was, thereafter, reverted from Inspector to Sub-Inspector on 30th January, 2013 was reverted to the post of sub-Inspector and as such the petitioner retired as a Sub-Inspector. The issue, therefor, is that whether the petitioner on his retirement will be treated as an ad hoc Inspector and shall be granted the commensurate scale of pay or he shall be treated as a Sub-Inspector on having not been confirmed as an Inspector on the date of his superannuation, i.e., 31st January, 2013. This issue is not clear from the order dated 29th July, 2022 as from the chart forming part of the said order it appears that the petitioner as on 31st January, 2013 has been treated as Inspector ad hoc with a particular pay scale as vetted on 18th January, 2013 while on 31st January, 2013 being his last date of service the petitioner has been shown as Sub-Inspector (Regular) with a different scale of pay.

In the aforesaid facts and circumstances, the writ petition is disposed of by directing the Senior Divisional Finance Manager, South East Central Railway, Raipur being the respondent no. 4 since the petitioner retired from such Division to consider the petitioner's case in the light of the following issues:-

- (i) Whether the petitioner should have been given the scale of pay applicable to an Inspector of the RPF as on 31st January, 2013 on being promoted as an Inspector on ad hoc basis which was not confirmed till the date of his retirement or he should be considered at the time of his retirement to be a Sub-Inspector of the RPF;
- (ii) If the petitioner is to be treated as Inspector ad hoc as on his date of retirement then the respondent no. 4 shall also ascertain whether the petitioner has been given retiral benefit as also pensionary benefits on being computed at a lower scale of pay;
- (iii) If the retiral benefits and the pensionary benefits of the petitioner have been computed on the basis of a lower scale of pay, i.e., of a Sub-Inspector, the respondent no. 4 shall compute the retiral benefit and the pensionary benefit of the petitioner on the basis of scale of pay applicable on the date of the petitioner's retirement and direct pay of any additional amount so found due.

- (iv) If it is found that the petitioner is to get additional amount on account of retiral benefit and additional pensionery benefit, the petitioner shall be at once provided with the same and paid the arrears amount with interest at the rate of 6% per annum from the date on which the same fell due till the date of actual payment.

Although, the writ petition is filed on 19th September, 2024 but in view of the order dated 29th July, 2022 I do not find that the petitioner has approached this Court with an inordinate delay or there has been any laches on the part of the petitioner. Moreover, the computation of pensionery benefit at a lower scale of pay will lead to a continuing wrong against the petitioner on being paid a lesser amount every month and as such the petitioner's claim cannot be also termed as belated service related claim though the petitioner may have retired on 31st January, 2013.

The writ petition is, accordingly, disposed of.

(Arindam Mukherjee, J.)