

23.04.2024  
Item Nos.38 & 39  
Court No.29  
Avijit Mitra

**RVW 264 of 2023  
with  
IA No. CAN 1 of 2023  
in  
WP.ST 200 of 2016**

**The State of West Bengal & ors.  
- Versus -  
Debasis Pradhan & ors.**

Mr. Tapan Kumar Mukherjee, Sr. Advocate,  
Mr. Pinaki Dhole,  
Mr. Somnath Naskar  
...for the applicants/respondents  
Mr. Pratik Bhattacharyya,  
Ms. Srijani Mukherjee  
...for the respondents/writ petitioners

Affidavits filed in Court be taken on record.

State seeks review of the judgment and order dated September 25, 2023 passed in WP.ST 200 of 2016 on the ground that, the State was unable to produce a relevant document at the time of hearing.

Learned senior advocate for the review applicants submits that, the writ petitioners are not entitled to promotion from February 04, 2000. Rather, their promotion is to be considered with effect from August 11, 2009 when the Public Service Commission recommended their promotion.

He submits that, the Rules governing the promotion requires recommendation of the Public Service Commission which occurred on August 11, 2009.

Learned senior advocate for the review applicants submits that, the writ petitioners are guilty of suppression of material facts. The writ petitioners were aware of such recommendation of Public Service Commission. The writ petitioners deliberately suppressed the same. Consequently, he submits that, the judgment and order dated September 25, 2023 should be reviewed.

Learned advocate for the writ petitioners opposes the prayer for review. He submits that, no new material fact was discovered subsequent to the judgment and order dated September 25, 2023 warranting review of the same. Moreover, he submits that the points sought to be raised presently, were agitated at the time of hearing. He contends that the writ petitioners did not suppress any fact from the Court.

We perused our judgment and order dated September 25, 2023.

The writ petitioners being aggrieved by an order dated July 08, 2016 passed by the West Bengal Administrative Tribunal in O.A. 701 of 2015 filed the writ petition.

We disposed of the writ petition by holding that vacancies in the higher post occurred prior to February 04, 2000. The writ petitioners were not promoted to such higher post for no fault of theirs. The authorities did not

undertake the exercise of filling up of the higher post through direct recruitment despite an opportunity being granted to them to do so. The vacancies to the higher post, namely, Assistant Research Officer (Hydraulic) Group-A occurred prior to February 04, 2000 when the writ petitioners were recommended for appointment on promotion.

By the judgment and order dated September 25, 2023, we modified the impugned order of the Tribunal and directed the authorities to grant promotion to the writ petitioners to the post of Assistant Research Officer (Hydraulic) Group-A with retrospective effect from February 04, 2000 and grant of consequential financial and other service benefits to them.

Such exercise is to be completed within 16 weeks from the date communication of this order.

It is likely that the writ petitioners, were granted Career Advancement Scheme benefits in their earlier grade pay prior to their superannuation. We directed the writ petitioners as promoted to the post of Assistant Research Officer (Hydraulic) Group-A with retrospective effect on and from February 04, 2000 and to grant them all consequential, financial and other service benefits.

Therefore, our order contemplates that, in our view, the writ petitioners will be entitled to be treated as promoted to the post of Assistant Research Officer (Hydraulic) Group-A on and from February 04, 2000. They

will be entitled to grade pay of such post from such date along with all other financial benefits.

They will also be entitled to Career Advancement Scheme benefits subsequent to February 04, 2000 till their date of superannuation, in accordance with law. The financial benefits that they already received will be adjusted towards the financial benefits that the writ petitioners are entitled to in terms of the judgment and order dated September 25, 2023 as clarified by us today, and they be paid the difference, if any.

Time to comply with the judgment and order dated September 25, 2023 is extended for a further period of 16 (sixteen) weeks from date save and except the writ petitioner who is scheduled to be superannuated from December 31<sup>st</sup>, 2024.

For such writ petitioner, normal time period taken for payment of retiral benefits should be adopted.

The ground canvased for review is one of the suppression of a document dated August 11, 2009.

Such document was pleaded in the original application filed before the Tribunal.

Question of suppression does not arise.

In any event such document is a recommendation of Public Service Commission.

Such document does not alter the factual scenario so far as the entitlement of the writ petitioners are concerned.

We, in our judgment and order dated September 25, 2023 held that the petitioners were entitled to promotion

with effect from February 04, 2000 and proceeded to grant them such benefit. Therefore, the letter dated August 11, 2009 of the Public Service Commission would not affect the material outcome of the proceedings.

RVW 264 of 2023 along with all connected applications is disposed of without any order as to costs.

**(Debangsu Basak, J.)**

**(Md. Shabbar Rashidi, J.)**