

Ct. 08
Item No.07
01.02.2024
(**Suvendu**)

MAT 2267 of 2023
With
CAN 1 of 2023
With
CAN 2 of 2023

The State of West Bengal & Ors.
Vs.
Sayan Kumar Panda & Ors.

Mr. Tapan Kumar Mukherjee
Mr. Pinaki Dhole
Mr. Somnath Naskar
..... for the appellants

Mr. Sakti Pada Jana
Mr. Subhojyoti Das
....for the respondent

Re. CAN 2/2023

1. This is an application for condonation of delay.
2. We have heard the learned counsel for the parties.
3. We are satisfied with the explanation offered for the delay in preferring the appeal.
4. Hence, the delay in preferring the appeal is condoned. The application for condonation of delay is allowed.

Re. MAT 2267 of 2023 with CAN 1/2023

5. We have heard the learned Additional Government Pleader in support of the appeal.
6. The appeal arising out of an order dated 25th July, 2023 passed in a writ petition in which the writ petitioner prayed for benefits and allowances under the Revision of Pay and Allowances (ROPA), 2019.
7. Admittedly, the writ petitioner was working as a Chemist with the Durgapur Chemicals Limited (DCL). He was appointed in December, 2009 pursuant to an advertisement dated 23rd September, 2009. He was initially appointed in the pay scale of Rs. 4,500/- -9,700/- as per ROPA 1998. The petitioner was given the benefits in accordance with ROPA Rules, 2009. The pay scale of the writ petitioner was revised from time to time and he was last given a pay scale of 16-. However, the writ petitioner was neither given the benefits of Chemist Grade -I, which was the serial no. 15, nor the petitioner was considered in the pay scale of Chemist Grade -II which was in serial no. 17 in the list of employees upon implementation of ROPA 2019.
8. The position of the petitioner was thus in between Chemist Grade -I and the Chemist Grade -II in Pay Band 3. After the implementation of ROPA 19 with effect from 1st January, 2020, the writ petitioner

was neither given the benefits in terms of serial no. 15 which was higher than the petitioner's grade nor in terms of serial no. 17 that was lower than the petitioner's grade.

9. The petitioner was receiving pay in Pay Band 3 under the 5th Pay Commission. The corresponding Pay Band to Pay Band 3 would have been pay matrix 10 with a basic pay of Rs. 42,000/- considering the previous basic pay of the petitioner in between the 7,100/--37,600/- in Pay Band 3.
10. The writ petitioner approached the learned Single Judge ventilating his grievance that he would not be deprived of the benefit of ROPA 19 on the ground that the petitioner is neither positioned in Grade -I nor in Grade -II Chemist. There was no justifiable reason for not extending the benefits of 6th Pay Commission under ROPA 19.
11. The learned Additional Government Pleader submits that so far as the present employees are concerned, they were not regularized but they were in the employment of the DCL. They made representations but no steps have been taken by the State Government in view of the fact that the DCL is not generating funds any more and completely dependent upon the State Government for providing funds for payment of salaries to its employees. In the event, the writ petitioner is allowed for getting the

benefits of ROPA 19, the State exchequer would be burdened.

12. Our attention is drawn to a Communication dated December 26th December, 2019 issued by the Deputy Secretary, Public Enterprises & Industrial Reconstruction Department, Government of West Bengal to the Director-in-Charge, DCL.
13. It appears from the record that the benefit of ROPA 19 have already been extended to 168 employees of the DCL excluding the writ petitioner and three others although they were discharging same function. The Memo, which the learned AGP refers, shows that the DCL was temporarily suspended and corrective measures for safety sought to be implemented with the recommendations of the WBPCB. After compliance, a fresh inspection of expert from WBPCB will be conducted and upon satisfactory report of compliance in respect of safety matters, process activities may be resumed with immediate effect. During temporary suspension of work, all the employees of DCL are entitled to get salary, emoluments and other dues as admissible till resumption of normal work.
14. It, thus, appears that the writ petitioner has been discriminated vis a vis 168 employees of the DCL.
15. Learned AGP is unable to submit any satisfactory explanation, particularly in view of the Memo dated 26th December,

2019, as to why the present writ petitioner should be deprived of ROPA 19 when 168 employees, despite the work of DCL being temporarily suspended, have been extended the benefit ROPA 19.

16. On such consideration, we do not find any reason to interfere with the order passed by the learned Single Judge.
17. However, in the given facts and circumstances of the case, the order directing interest is set aside
18. The arrears of such benefits will be disbursed within four weeks from date, in default, the order of the learned Single Judge shall survive with regard to interest.
19. The appeal and the connected application are disposed of with no order as to costs.
20. Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Uday Kumar, J.)

(Soumen Sen, J.)