28.03.2025
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Ct.No.654
sdas

WPA 7369 of 2024

Gunasindhu Das
Vs.
The State of West Bengal & Ors.

Mr. Chandrachur Lahiri
...for the petitioner

Pinaki Dhole
... for the State

Ms. Tapasi Sinha Palit
... for the respondent no. 2

A retired teacher of a high school has approached this Court with this writ petition, seeking redressal of his grievance that his pension has not been calculated correctly, resulting in a lower payment of his pensionary benefits.

Mr. Lahiri, learned advocate for the petitioner, submits that the petitioner retired from service on 1st September, 1994, upon attaining the age of superannuation. On 1st September, 2014, he turned 80 years old and became eligible for a 20% enhancement in his pension, as per Clause 4.5 of the Circular vide G.O. No. 200-F(Pen) dated 25th February, 2009. While the authority responsible for pension payments to retired employees granted the benefit, the enhanced portion was not added to his basic pension. Subsequently, in 2019, the petitioner reached the age of

85 years, and in accordance with the prevailing rules, his basic pension was due for an additional enhancement of 30% of his existing basic pension. In 2020, following the recommendation of the Pay Commission, the petitioner's existing basic pension was revised by applying a multiplier of 2.57. However, the enhanced pension was not added to his revised basic pension.

Referring to a Memo. vide. no. 535 -F (Pen) dated 1.10.2019, Mr. Lahiri elaborates on his contention by arguing that in 2014, an amount of approximately Rs. 1300/- should have been added to the petitioner's existing basic pension of Rs. 6548/-. As a result, his basic pension would have increased to around Rs. 7858/-. Subsequently, a 30% enhancement should have been applied to this revised basic pension of Rs. 7858/-, and in 2019, the multiplier of 2.57 should have been applied to this amount. However, the concerned authority has erred in its calculations, leading to an erroneous determination of his pension, which resulted in a lower payment than what was due.

Mr. Dhole, learned advocate representing the State, disputes the contention raised by Mr. Lahiri. Drawing my attention to pages 22 and 23 of the writ petition, he argues that the benefit of pension enhancement was correctly granted to the petitioner and that there is no ground to interfere in this writ petition. Mr. Palit concurs with Mr. Dhole's submission and prays for the dismissal of the writ petition.

The Memo. vide. 96/KGP TRY dated 7.2.2023 (Annexure-'P4' at page no. 23 to the writ petition) which provided the information in response to the application presented by the petitioner under R.T. Act, 2005 indicates that the Treasury Officer acknowledged that upon attaining the age of 80 years, the petitioner was granted 20% of basic pension (Rs. 1310) in accordance with Rule 4.5 of G.O. no. 200-F (Pen) dated 25.02.2009. However, it is unclear whether that amount was added to the petitioner's existing basis pension, Rs. 6548/-.

Para 4.5 of Memo. No. 535-F (Pen) dated 1.10.2019 specifies the method for increasing the quantum of pension/family pension for old pensioners/family pensioners. It mandates that for pensioners who have attained the age of 80 to 85 years, the additional quantum of pension will be 20% of the revised basic pension, and for those who have attained the age of 85 to 90 years, the additional quantum will be 30% of the revised basic pension. Para 4.1 of this Memo mandates that the pension of existing pre-2016 pensioners will be revised notionally by multiplying the existing basic pension as of 31.12.2015 by 2.57. Clause 9 of this Memo prescribes that the revised pension, as calculated in accordance with paras 4.1 to 4.5 above, shall be treated as the final 'Basic Pension' w.e.f. 1.1.2020 and shall qualify for the grant of relief on pension sanctioned thereafter, if any.

Therefore, the use of the words "as on 31.12.2015" indicates that the legislature did not intend for the basic pension to remain static, rather, it is revisable. It would be revised in accordance with the Rules applicable at the relevant time and introduced from time to time. The above Memo indicates that the Government intended to provide an incentive to pensioners who have attained the age of 80 and above. The question, however, is whether such an incentive would be an additional amount being a certain portion of the basic pension, to be paid separately, or whether it would be added to the basic pension. Upon perusal of paras 4.1, 4.5, and Clause 9 of the Memo. dated 1.10.2019, it prima facie appears that the petitioner's contention has merit.

Although the Treasury Officer, in response to an application presented under the RTI, supplied certain information claiming that the petitioner was granted the benefits, for the resolution of the issue raised in the writ petition, I am inclined to refer the dispute back to the Treasury Officer. I direct him to revisit the matter and reconsider the petitioner’s grievance that 20% of his basic pension, based on his age of 80 years, should be added to his basic pension as of 1.9.2014. Similarly, 30% of his basic pension should be added to his basic pension as of 2019. Furthermore, his basic pension as of 2019 should be revised by applying the multiplier of 2.57, and all consequential benefits, including DA, should be calculated based on the revised basic pension from time to time.

Before deciding the issue, the Treasury Officer shall afford an opportunity of hearing to the representative of the petitioner and take note of paras 4.1 and 4.5, read with Clause 9 of the Memorandum vide No. 535-F(Pen) dated 1st October, 2019, as well as any other relevant documents or rules.

It is clarified that if the Treasury Officer finds that the petitioner's claim is justified, he shall take all necessary steps to grant the benefits, including any consequential benefits, to the petitioner. If the Treasury Officer determines that the petitioner's claim lacks merit, he shall issue a reasoned order, and the same must be communicated to the petitioner. The entire process shall be completed within eight weeks from the date of receipt of a copy of this order.

With these observations and order this writ petition is, thus, disposed of.

There shall be no order as to costs.

(Partha Sarathi Chatterjee, J.)