

06.11.2025
(D/L-26)
Ct. No.4
(B.K.N.)

W.P.S.T. 67 of 2025

Dr. Bazlul Islam
Vs.
The State of West Bengal & Ors.

Mr. Golam Mastafa,
Mr. Tarasankar Samanta,
Mr. Kazi Asif Iqbal

...for the Petitioner

Mr. Tapan Kr. Mukherjee, Ld. AGP,
Ms. Sangeeta Roy

...for the State

1. The writ petitioner has been reagitating his claim for grant of salary due along with increments for a period in between 2009 to 2015. During the said period as per the authorities the petitioner was unauthorizedly absent for a long period. In the circumstances he was also deprived of salary. In view of the long period of unauthorized absence the authorities were of the view that the petitioner has overdrawn an amount of Rs. 13.42 lakhs. The said opinion of the authorities is contained in a reasoned order dated 15.04.2024 passed in compliance of order passed by the West Bengal Administrative Tribunal in an earlier O.A. 528 of 2017 filed by the writ petitioner.
2. The learned advocate for the writ petitioner submits that the writ petitioner would have no grievance against the decision of the authorities to recover the

amount of Rs. 13.42 lakhs, if while doing so they pay the petitioner his due salary including the admissible increments for the periods for which he has been wrongly deprived of the same.

3. The learned AGP on the other hand submits that as per the up to date instructions received from the authorities the authorities have proposed the recovery of Rs. 13.42 lakhs to be made in easy instalments spread over six months.
4. We find that the reasoned order which was impugned before the Tribunal does not consider and deal with the petitioner's claim for due salary along with increments. It merely deals with the alleged excess withdrawal made by the petitioner. Since the representation also raised an issue of due salary, the authorities were obliged to consider the said claim also in accordance with law. They have not considered petitioner's claim, and without according such consideration has proceeded to quantify the alleged amount 13.42 lakhs to be recovered from the petitioner. We, therefore, find the reasoned order dated 15.04.2024 to be unsustainable. The Tribunal has also failed to consider this aspect of the matter. The Tribunal appears to have proceeded to consider the petitioner's Original Application having regard to the alleged long period of unauthorized absence, and alleged reliance placed by the petitioner on certain

false and fabricated documents in support of his claim. Therefore, the decision of the Tribunal in our considered view is unsustainable.

5. The Tribunal as well as this Court while considering claim of the petitioner is to exercise its jurisdiction within the limits of the scope of judicial review. While exercising such jurisdiction the decision making process is susceptible to review and not a decision itself. The process of decision making leading to the reasoned order dated 15.04.2024 in our opinion is unsustainable in as much as the authority has failed to consider and decide the issue regarding petitioner's claim for due and admissible salary along with increments. While excluding such consideration the authorities have proceeded to consider only the aspect regarding the alleged excess withdrawal of salary by the writ petitioner.
6. Since the petitioner raised a claim for salary including increments, etc. and the authority was alleging unauthorised absence inviting the consequence of recovery of salary, the issue was required to be considered by the authority together and to be decided by an order showing composite consideration of the rival claims. The matter is, therefore, required to be considered afresh by the respondents. We leave all issues open for the respondent authority to take a decision in

accordance with law within eight weeks from the date of receipt/production of a copy of this order.

7. To facilitate such composite consideration of the petitioner's claim vis-a-vis the alleged excess withdrawal made by the writ petitioner, we set aside the reasoned order dated 15.04.2024 as well as the order passed by the Tribunal in O.A. 250 of 2024 on 07.03.2025.
8. The writ application is disposed of in these terms.
9. Urgent Photostat Certified copy of this order, if applied for, be supplied to the parties upon compliance with all necessary formalities.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)