

20.01.2025

Item no.DL/4
Court No. 23

Asraf, A.R.(Ct.)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA 11143 of 2024

Dr. Samaresh Kanti Panday
Vs.
Union of India & Ors.

Mr. Sujit Lal Sircar
....for the Writ Petitioner

Mr. Subit Majumdar
....for the Respondent No.1

The petitioner after taking voluntary retirement from his services with the Indian Railways as an officer under Indian Railways Administrative Services joined the Railway Claims Tribunal (in short, "RCT"), Bhubaneswar as a member (technical) with effect from 22nd March, 2017. The petitioner retired from the services with effect from 8th September, 2021. The petitioner, therefor, worked as a member (technical) in the RCT for a period of four years five months and eighteen days. The petitioner says that he has been given a monthly pension of Rs.13,612/-. The petitioner says that his pension amount should be Rs.15,314/- as is to be calculated on the basis that the petitioner served the RCT for four years and six months.

The petitioner refers to Railway Claims Tribunal (Salaries & Allowances and Conditions of Services of Chairman, Vice-Chairman and Members) Rules, 1989 (hereinafter referred to as, "1989 Rules"). Referring to Rule 8(2) of 1989 Rules, the petitioner says that pension as per the said Rule shall be calculated at the rate of Rs.14,532/- per annum for each completed year of service.

The department has calculated the monthly pension of the petitioner treating him to have served for four years. The petitioner says that this computation is erroneous as on a conjoint reading of Rule 16 of 1989 Rules with the Central Civil Services (Pension) Rules, 1972 (hereinafter referred to as, "1972 Rules"), the tenure of the petitioner's service with RCT should be four years and six months. The petitioner says that the rules and orders applicable to Additional Secretary to the Government of India as per Rule 16 of 1989 Rules is also applicable in the case of a Member like the petitioner. Under Rule 49(3) of 1972 Rules, the petitioner says that it is clear while calculating the length of qualifying service fraction of a year equal to three months and above shall be treated as a complete one half year and reckoned as qualifying service.

In view of such stipulation, since the petitioner has completed service for more than three months, it should be construed that the petitioner has completed service for half of the year. The pension of the petitioner, therefor, has to be computed on the basis of four and half years service. The petitioner claims the arrears of the pension on the basis of such calculation and disbursement of the same with interest.

After hearing the parties and considering the materials on record, I find that the petitioner has been able to make out a case that his length of service for computing his pension while the petitioner was a Member of the Railway Claims Tribunal at Bhubaneswar shall be four years and six months since he had completed four years five months and eighteen days on a conjoint reading of the provisions of Rule 16 of the 1989 Rules with Rule 49 of the 1972 Rules.

The respondents are directed to compute the petitioner's revised pension within 31st March, 2025 and on and from April, 2025 the petitioner shall be paid the revised amount, if any. So far as the arrears on and from 9th September, 2021 (date immediately after retirement) are concerned arising out of the difference of the pension now paid and the revised pension, if

any, shall also be paid with interest at the rate of 6% per annum to the petitioner by 31st March, 2025.

Nothing further remains to be adjudicated in this writ petition. The writ petition is, accordingly, disposed of.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Arindam Mukherjee, J.)