

20.06.2025
DL 01 Ct. No.41
kaushik

WPA 11124 of 2023
Kanailal Chakraborty
VS.
State of West Bengal & Ors.

Mr. Ayan Banerjee
Ms. Debasree Dhamali
Ms. Riya Ghosh
...for the petitioners

Ms. Tuli Sinha
...for the State

Mr. Arindam Banerjee
....for the respondent Nos. 3 & 4

This writ petition has been filed by a retired Judicial Officer challenging the decision adopted by the Hon'ble Administrative Committee dated 21 December 2022 *inter alia* granting the petitioner the benefit of super time scale of pay notionally from 2007 and actual monetary benefits w.e.f. 21 December 2022.

Briefly, the petitioner had joined the West Bengal Judicial Service on 26th September, 1978. Thereafter, he was promoted to the cadre of District Judge and served as a Member of West Bengal Higher Judicial Service till his superannuation on 31st October, 2007.

The applicable service conditions of the petitioner were governed by West Bengal Judicial Service (Revision of Pay and Allowances) Rules, 2003.

In particular, Rule 15 of 2003 Rules provides as follows:

“15. Selection Grade Scale and Super Time Scale for Higher Judicial Officers in the rank of District Judges. – The promotion to the pay scales of Selection Grade and Super Time scale shall be on merit – cum – seniority basis to be decided by the High Court of Calcutta, 25% of the posts of Higher Judicial Officers in the rank of District Judges who have put in not less than 5 years of continuous service in a post in the rank of District Judges shall be awarded Selection Grade Scale and 10% of the posts of Higher Judicial Officers in the rank of District Judges who have put in not less than three years of continuous service in the Selection Grade posts shall be allowed Super Time Scale of Pay.”

It is contended that despite being eligible, the petitioner was not considered for Super Time Scale of Pay as would appear from the notification dated 12 September, 2006.

Thereafter, in view of the fact as the petitioner was not considered in the 2008 selection process for conferment of Super Time Scale of Pay, the petitioner was compelled to file a writ petition being WPA 25149 of 2014. By an order dated 24 February, 2022 a Coordinate Bench was pleased to direct the respondent no.3 to revisit the eligibility of the petitioner to receive the Super Time Scale of Pay on the basis of the prevalent Regulations.

By a notification dated 20 January, 2023, the respondent authority resolved that since the petitioner fulfills all prescribed norms and guidelines for being eligible for Selection Grade of Pay and Super Time Scale of Pay in terms of Rule 15, the petitioner would be granted Super Time Scale of Pay notionally w.e.f. the date of his eligibility in the year 2007 and actual monetary benefits shall be extended to him w.e.f. 21 December, 2022.

The petitioner assails the impugned decision primarily on the ground of discrimination and contends that officers junior to the petitioner have been found to be eligible for Super Time Scale of Pay with immediate effect i.e. from 1 January, 2007 and have got actual monetary benefits from the actual date of eligibility. In such circumstances, the grant of notional benefit as far as the petitioner is considered is discriminatory and unlawful.

On behalf of the respondent it is submitted that pursuant to directions passed in a prior litigation WPA 25149 of 2014, the Administrative Committee on 21 December, 2022 reconsidered the entire issue of the petitioner afresh and after applying their discretionary wisdom passed the impugned decision. In any event, the Administrative Committee has exercised its discretion upon consideration of the Annual

Confidential Reports (ACRs) and all other available materials before them.

Repeated pronouncements by the Hon'ble Supreme Court have cautioned against the limits of judicial review and interference in such matters. While exercising such discretion, the Court does not assume the role of employer. The Court cannot substitute its opinion and devise its own method for evaluating fitness or promotion of a candidate. Rule 15 contemplates merit cum seniority. Thus, in applying Rule 15 merit takes first place and seniority second. In arriving at the impugned decision the ACR's of 2005, 2006 and 2007 were considered by the Committee. Accordingly, the merit factor does not carry with it, the potentiality of arbitrariness.

The impugned decision has been exercised purely on administrative discretion after having taken consideration all the relevant facts and circumstances. Such discretion is in consonance with the principles of justice, equity and fair play. The impugned decision has been taken in good faith. This is also not a case of there being no reasons at all.

There is also no merit in the plea of discrimination. The facts of each employee are different. The ACR's were different. The time gap was different. There can be no straight jacket formulae in

such cases. As such, there is a rationale basis for such differentiation.

In such circumstances, the decision to grant monetary benefits notionally is in exercise of the discretionary powers of the Administrative Committee which is not liable to be interfered with. There is no indefeasible right which the petitioner can seek. There is nothing in the exercise of discretion by the Administrative Committee which can be described as unjust, unfair, unreasonable or is liable to be declared as violative of articles 14 and 16 of the Constitution. In any event, the jurisdiction of reviewing the impugned decision is limited and exceptional. There is no illegality nor perversity nor contravention of any law which justifies any interference.

In view of the above, the writ petition fails.

WPA 11124 of 2023 stands dismissed.

The State is directed to take necessary steps forthwith for release of the monetary benefits which have been directed to be extended to the petitioner w.e.f. 21st December, 2022. In this connection, the respondent nos. 3 and 4 are also directed to provide the State with the above calculation to which the petitioner is entitled.

(Ravi Krishan Kapur, J.)