

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

11.06.2025
Ct. no.2
M.L. Sl. 21
Moumita

WPA 14036 of 2024

**Shri Swapan Kundu
Vs.
Indian Oil Corporation & Ors.**

**Mr. Manabendra Thakur
Mr. Amlan Jyoti Sengupta
.....For the Petitioner
Ms. Sanjukta Dutta
Mr. Ranit Roy
.... For the Respondents.**

On the prayer of Ms. Sanjukta Dutta, learned advocate appearing for the Oil Company time to file report in the form of an affidavit stands extended till today.

Report filed in Court today is taken on record.

Copy has already been served.

Identically, on the prayer of Mr. Manabendra Thakur, learned advocate with Mr. Amlan Jyoti Sengupta, learned advocate appearing for the petitioner time to file exception stands extended till today and the exception filed in Court today in the form of an affidavit is taken on record.

The relevant prayers from the writ petition are quoted below:

a) "A writ in the nature of mandamus with a direction to the respondent authorities to calculate the amount of arrear service benefit from 22.07.2011 till 30.06.2013 and retirement benefit from

30.06.2013 till date including increase amount of PF and gratuity pensionable annuity according to increased salary in terms of 7th Central Pay Commission and to continue the gratuity pensionable annuity month by month and retirement benefit in terms of 7th Central Pay Commission which is payable to the petitioner;

b)A writ of Mandamus with a direction to the respondent authority to disburse the amount in respect of arrear salary benefits in terms of 7th Central Pay Commission and arrear retirement benefit in terms of the 7th Central Pay Commission in favour of petitioner forthwith;"

In the light of the said prayers made in the writ petition Ms. Sanjukta Dutta, learned counsel appearing for the Oil Company has placed her reports and submits that admittedly the petitioner retired on **June 30, 2013** and the 7th Pay Commission came into effect in **January 2017**, much after the petitioner had retired. Therefore, the petitioner cannot claim any **in service** benefit under the 7th Pay Commission and the petitioner is not entitled as such.

Per contra, learned counsel for the petitioner submits that petitioner even as per the entitlement of the petitioner under 6th Pay Commission during his employment tenure, the basic salary was not paid to the petitioner. He further submits that insofar as pensionary benefit is concerned, after superannuation petitioner is

eligible to receive whatever benefits to which he is eligible in law in terms of 7th Pay Commission.

After considering the rival contentions of the parties and upon perusal of the materials on record, this court is of the firm view that no ***in service*** benefit can be extended to the petitioner in terms of 7th Pay Commission since the petitioner had retired long before the 7th Pay Commission was effected. However, the petitioner shall get the pensionary benefit in accordance with law in terms of 7th Pay Commission.

Therefore, the claims of the petitioners in terms of ***prayers (a) and (b)*** to the writ petition insofar as in service benefits in terms of 7th Pay Commission is concerned, stand ***rejected***.

The petitioner has worked for 35 years and has put his blood and toil for the employer.

Considering the above, the petitioner is granted liberty to make a comprehensive representation before the respondent no. 5 with regard to his claim, if any, ***only for outstanding amount payable to him strictly in terms of 6th Pay Commission*** during his employment as per his eligibility strictly in accordance with law.

The petitioner shall submit such a representation within a period of ***six weeks*** from date. It is further made clear that the ***said representation shall not contain***

any claim on account of in service benefit in terms of 7th Pay Commission.

In the event such a representation is submitted by the petitioner, the respondent no. 5 after verifying all the records shall take a reasoned decision in accordance with law and shall communicate the same to the petitioner.

The entire exercise shall be carried out by the respondent no.5 positively within a period of ***six weeks*** from the date of receiving the representation from the petitioner.

In the event, it is found that the petitioner is entitled to receive any further monetary benefit as in service benefit in terms of ***6th Pay Commission***, the same shall be paid to the petitioner along with interest at the rate of ***6% per annum*** on and from ***the next date of retirement*** of the petitioner on such sum and the amount along with interest shall be paid within a period of ***three months*** from the date of the said reasoned decision to be taken by the respondent no. 5.

At this juncture, Ms. Sanjukta Dutta, learned counsel appearing for the Oil Company, on instruction, submits that whatever benefits the petitioner was entitled to arising out of his employment has already been paid.

It is also made clear that, this order shall not create any right or equity in favour of the petitioner, if the

petitioner does not succeed to his claim before the respondent no.5, strictly in accordance with law.

With the above observations and directions, this writ petition, **WPA 14036 of 2024** stands ***disposed of***, without any order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties expeditiously, on compliance of usual legal formalities.

(Aniruddha Roy, J.)