

Item.6

12.06.2025
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Ct. 2

WPA 17322 of 2024

Subhasis Poddar & others.

-vs-

The State of West Bengal & others.

Mr. Goutam Dey
Ms. Akshita Nath

...for the petitioners

Ms. Deblina Chattoraj
Ms. Poulami Chattopadhyay

...for the respondent nos. 2 to 5

Mr. Amal Kr. Sen, Ld. AGP
Ms. Ashima Das (Sil)

...for the State

The writ petitioners admittedly are the employees of respondent no.2 which is a State undertaking. The petitioners, as such, claim the Career Advancement Scheme (CAS) benefit in terms of State Memorandum dated **March 13, 2001, Annexure- R/3** at **page 17** to the affidavit report filed on behalf of respondent nos. 2 to 5. Referring to a document dated **August 14, 2007, Annexure R/4** at **page 26** to the report, Mr. Goutam Dey, learned counsel appearing for the petitioners submits that the Transport Department of the State had issued the said document confirming that the said C.A.S. benefit would apply for the respondent no.2 undertaking also. Learned counsel for the petitioners further submits that in course of their employment, the petitioners have also received C.A.S.-2

benefits in terms of the said 2001 Memorandum. The petitioners claim further benefits under the said 2001 Memorandum, according to the petitioners, to which they are eligible in accordance with law.

Ms. Deblina Chatteraj, learned counsel appearing for respondent nos. 2 to 5 referring to the said memorandum dated March 13, 2001 from page 17 to the report specifically submits that the said Memorandum was applicable to and restricted for the **Government Employees** exclusively. The said Memorandum did not extend any C.A.S. benefit for the employees of any State undertaking. The petitioners admittedly are the employees of State undertaking. Hence, the claim of the writ petitioners are totally misconceived and frivolous and the writ petition is liable to be dismissed.

She further submits that the petitioners claim a correction and re-fixation of their basic pay on the basis of the said 2001 Memorandum and since the same is not applicable for them, their claim cannot stand in the eye of law.

Ms. Chatteraj, learned counsel for the State undertaking then refers to a judgment of the Hon'ble Division Bench dated **August 29, 2024 In the matter of: West Bengal Transport Corporation Limited & ors. -vs- Goutam Roy Chowdhury & ors. rendered in APO NO. 95 of 2024, Annexure-R/8 at page 38 to the report,** in support of her contention.

She submits that considering all the relevant

Memoranda, the Hon'ble Division Bench had delivered the judgments and the finding of the Hon'ble Division Bench was that the said Memorandum dated **March 13, 2001** was restricted to the **Government Employees** only and should not be extended for the benefit of the employees of any State undertaking. Even if, any benefit has been extended to the employees of State undertaking under mistaken interpretation and misconstruction of the relevant Memoranda, the same was extended wrongly and negative equality cannot be claimed as of right.

Per contra, Mr. Goutam Dey, learned counsel appearing for the petitioners submits that the said judgment of the Hon'ble Division Bench was delivered in the light of the 3rd C.A.S. benefit. The petitioners have already received the 2nd C.A.S. benefit and claims further C.A.S. benefits in terms of the said 2001 Memorandum. He further submits that the claim of the petitioners is also sustainable in view of ROPA 2019.

After considering the rival contention of the parties and upon perusal of the materials on record and the reports and the exception thereto filed by the parties, on a plain reading of the said Memorandum dated **March 13, 2001**, it appears to this Court that the same is restricted for the **Government Employees** only. The Memorandum shall not apply for any other employees other than the **Government Employees**. The employees of the respondent no.2, being the petitioners herein, are the employees of a State undertaking

for whom no benefit under the said Memorandum dated **March 13, 2001** can be extended.

The Hon'ble Division Bench ***In the matter of: West Bengal Transport Corporation Limited & Ors (Supra)*** had observed as under:

“ 3. It was further submitted that learned Single Judge failed to appreciate that by memorandum being No. 2676 - WT.7T – 18/2005 dated August 14, 2007, the state authorities were pleased to explicitly clarify that the benefits of the Carrier Advancement Scheme will be applicable upon the applicant No. 1 in terms of the memorandum No. 7552 (80) – F dated September 4, 2000.

*22. In the meantime, the State Government came up with another scheme of CAS vide Memo No. 3015-F dated March 13, 2001 modifying its earlier memo of 1990. It provided that a Government employee may be allowed to move to his respective next higher scale on completion of **eight years** of continuous and satisfactory service in his revised scale of the post and its corresponding unrevised scales taken together and to move to the scale next above the first higher scale on completion of **further eight years** of continuous and satisfactory service in the first higher scale and the corresponding unrevised scales under previous WBS (ROPA) Rules taken together and to move to the scale second next above the first higher scale on completion of **further nine years** of continuous and satisfactory service in the second higher scale and the corresponding unrevised scales under previous WBS (ROPA) Rules taken together.*

23. By doing so, the State Government made modification in the previous memorandum dated June 21, 1990 to the effect, that three CAS movements on completion of continuous and satisfactory service of 8 years, 16 years and

25 years were provisioned in the memo of 2001 instead of two CAS movements on completion of continuous and satisfactory service of 10 years and 20 years, available in the memo of 1990. The memo of 2001 explicitly stated in the memo of 2001 that “Other provisions of the existing career advancement scheme as contained in this Department No. 6075-F, dt. 21.6.90 which are not inconsistent with the provisions of this memorandum shall continue to remain in force.

24. All the provisions in the memo dated March 13, 2001 specifically refer to ‘Government Employee’ which is sufficiently indicative that the provisions of such memo were applicable exclusively to the employees of State Government. Nothing has been brought forth to establish that akin to memo dated September 4, 2000, the benefits of memo dated March 13, 2001 were ever extended to the employees of Corporations and Government Undertakings. It was a policy decision within the exclusive domain of the State Government to take a call.

26. In the impugned judgment and order, learned Single Judge observed that the while extending the benefit to the employees of the corporation, the authorities wrongly referred to the memo of June 21, 1990 in so far as on August 14, 2007, there was no existence of such memo of June 21, 1990. As on the date it was only the memo dated March 13, 2001 in operation and, therefore, three tier CAS benefits was the only scheme available to be extended to the employees of Appellant Corporation. The two tier CAS stood modified with the memo dated March 13, 2001.

27. To our understanding, such modifications in the Career Advancement Scheme brought through the memo of March 13, 2001 never wiped out the original memo dated June 21, 1990. It continued to remain operative. Moreover, the modifications made in the original memo of 1990 were directed only in respect of the Government employees. The employees of the Government undertaking and Corporations

continued to be governed by the original memo of 1990. A legislation specifically targeted to a particular class of persons cannot be made applicable to other class of persons in the teeth of Article 14 of the Constitution.

35. In the instant case, the issue is not of the framing of Rules but in fact, a Circular/Guideline was misconstrued and misinterpreted by the authorities in extending certain benefits to a class of employees who were not covered by such Circular/Guideline. We have also noted that Article 14 of the Constitution does not ordain negative equality and that there can be no estoppel against the State from refusing to grant a favour which it extended to some other persons under misconception and misinterpretation of law. The party claiming a relief must establish his right to receive such relief. We have noted earlier that nothing was placed before us that the benefits under the memo of 2001, exclusively applicable to the Government employees, were ever extended to the employees of Corporations/Undertakings.

36. In view of discussions made hereinabove, the impugned judgment and order dated May 9, 2024 passed in W.P.O. No. 226 of 2016 is set aside.

*37. Accordingly, the instant appeal **APO No. 95 of 2024** is hereby allowed but without any order as to costs and thus, disposed of. In view of the disposal of the Appeal, connected applications, if any, shall stand disposed of.”*

While considering the issue, it appears to this Court that the decision of the Hon’ble Division Bench was pronounced after considering all the relevant Memoranda including the said one dated **March 13, 2001**.

In view of the foregoing reasons and discussions, this Court is of firm view that the writ petition is completely devoid of any merit and the claims made by the petitioners

are frivolous.

Accordingly, this writ petition being **WPA 17322 of 2024 stands dismissed**, without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on priority basis upon compliance of all formalities.

(Aniruddha Roy, J.)