

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

Present :-

THE HON'BLE JUSTICE SHAMPA DUTT (PAUL)

WPO/642/2013

DR. BIJAYA PRASAD SAMANTARAY
VS
THE BOARD OF TRUSTEES FOR THE PORT OF KOLKATA & ORS.

For the Petitioner	:	Mr. Sanjib Kr. Mukhopadhyay, Adv. Ms. Aparupa Bhattacharya, Adv.
For the Respondents	:	Mr. Kallol Basu, Sr. Adv. Mr. Ashok Kumar Jena, Adv.
Hearing concluded on	:	12.12.2024
Judgment on	:	16.01.2025

Shampa Dutt (Paul), J. :

1. The present writ petition has been preferred, inter alia, praying for a direction upon the respondent authorities and each one of them their men, agents, assigns, and subordinates to rescind, recall, revoke and withdraw the decision taken by the Screening Committee of the respondent no.1 on 17th September, 2012 and grant three financial

upgradation to the petitioner in terms of the Modified Assured Career Progression Scheme, (in short, MACPS) of the respondent no.1 along with interest.

2. Both parties have been heard extensively and written notes of argument have been filed by both the parties.
3. The petitioner's case in short is that the petitioner joined the Kolkata Port Trust as an Assistant Medical Officer of Health on 08.09.1977 and was promoted to the post of Health Officer on 03.10.1987. The petitioner retired on and from 01.03.2012. It is the case of the petitioner that after completion of 10 years of continuous service on 08.09.1987, the petitioner became eligible for first promotion under MACPS. On completion of 20 years of service on 08.09.1997 the petitioner became eligible for the second promotion under MACPS and finally on completion of 30 years of service on 08.09.2007 the petitioner became eligible for 3rd promotion under MACPS.
4. A disciplinary proceeding was initiated against the petitioner on 01.04.2005 which ended in the punishment of 'censure' on 29.04.2008 (Subject matter of WP No.17401 (W) of 2007).
5. A second disciplinary proceeding was initiated on 28.07.2006 which ended in a major penalty of reduction of salary by three stages with cumulative effecting salary, pension etc. (subject matter of WPO No.408 of 2011).

6. On denial of personal promotion, that is, one promotion for completion of 10 years of service under MACPS with effect from 01.09.2008 and eligible for three financial upgradation, the present writ petition has been preferred.
7. The petitioner's further case is that the unlawful 'censure order' in a biased, perverse, vindictive and fraudulent way to satisfy the predetermined goal, the Kolkata Port Trust Authorities imposed punishment of pay reduction with cumulative effect affecting during service, retirement benefits, pension and pensionary benefits, followed by denial of financial upgradation as well as financial benefits involved under MACPS duly sanctioned by the Ministry of Transport and Shipping, Government of India, implemented under Kolkata Port Trust with the statement at page nos.12 to 15 of affidavit-in-opposition submitted in July 2014 in reference to WPO No.642 of 2013 at pages 12 to 15 as "However, a charge-sheet memorandum was pending against the petitioner from 28.07.2006 and disciplinary authority imposed penalty on 31.08.2010 for reduction of pay by three stages for one year," though Hon'ble Court vide order dated 03.05.2011 had ordered as "in view of the above, the operation of the impugned order of punishment dated 03.08.2010 and order dated July 17, 2011 passed by the Appellate Authority are stayed until further orders." However, minor penalty of censure was imposed on 29.04.2008, i.e., after 30 years of service of the petitioner and, thus,

the petitioner was never penalized during the 30 years of his service career in the light of the financial upgradation applicable to him under MACPS.

8. On the other hand, the case of the respondents is that:-

*“as directed by the High Court vide order dated 13.08.2013, **two MACP benefits were granted to the petitioner.** Consequent to the same, an amount of Rs.16,720/- was paid into the bank account of the petitioner. At the same time, however, in terms of the order dated 03.05.2011 passed by the Hon’ble Court in WPO No.408 of 2011, an amount of Rs.75,079/- has been withheld from arrear and pay allowance. Additionally, the difference of superannuation leave salary to the tune of Rs.15,574/- was paid into the petitioner’s bank account on 31.10.2013, withholding an amount of Rs.36,968/- in terms of the order dated 03.05.2011. Additionally, arrear-pension, relief money for the period between 01.03.2012 to 31.10.2013 to the tune of Rs.27,264/- and the difference of commutation pension money amounting to Rs.31,760/- calculated on the basis of revised pay, had also been paid in favour of the petitioner.”*

9. It is further stated that as the petitioner has been penalized in the disciplinary proceedings which are subject matter of the other writ petitions, the petitioner is not entitled to get the relief as prayed for in the present writ petition.
10. The written notes filed by the parties have been considered.
11. Thus, considering the materials on record and in view of the judgment in WP No.17401 (W) of 2007 and WP No.408 of 2011, the respondents are directed to pay all **dues as admissible** to the petitioner within 60 days from the date of this order.

12. Accordingly, the writ petition being WPO No.642 of 2013 is disposed of.

13. Urgent certified website copy of this judgment, if applied for, be supplied expeditiously after complying with all, necessary legal formalities.

[Shampa Dutt (Paul), J.]