

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 10817 of 2024

Nicholas Gomes
-versus
West Bengal State Electricity
Distribution Company Limited & Ors.

Ms. Priyakshi Banerjee
... For the petitioner

Mr. Supriyo Chattopadhyay
Ms. Debosri Chatterjee
... For WBSEDCL

1. The petitioner was employed with the West Bengal State Electricity Distribution Company Limited. A disciplinary proceeding was initiated against him which resulted in passing an order of punishment of deduction of 15 percent of his basic pension for three years without affecting his allowances. The period of suspension was confirmed and it was directed that he would not get any amount beyond the subsistence allowance payable to him during the suspension period.

2. The order of the disciplinary authority dated 5th September, 2006 was carried in appeal by the petitioner before the first appellate authority and vide order dated 29th January, 2007, the same stood dismissed. The petitioner preferred a second appeal which also stood dismissed on 31st July, 2007.

3. The petitioner approached this Court on an earlier occasion by filing writ petition, being WPA 19903 of 2023, challenging the order of suspension. The said writ petition stood dismissed on the ground of suppression of material fact of passing the order of punishment.

4. The Court, at the time of dismissal of the writ petition, did not grant any leave to the petitioner to file a separate petition seeking similar relief.

5. In the present writ petition, the petitioner has prayed for revocation of his period of suspension and to treat the said period as on-duty and release his dues and salary.

6. Learned advocate representing the respondents raises a preliminary issue of maintainability of the writ petition. It has been submitted that the earlier writ petition which stood dismissed and the present one has identical prayers. Once the prayer of the petitioner stood rejected, a separate writ petition with the same prayer will not be maintainable.

7. Upon hearing the submissions made on behalf of both the parties and on perusal of the materials on record, it appears that the entire cause of action for filing the instant writ petition arose in the year 2006-2007. The petitioner has since retired from service. The prayer of the petitioner challenging the

suspension order and seeking other subsequent relief stood dismissed by the Court in the earlier writ petition filed by him. The petitioner cannot be permitted to revive his prayer by way of filing the present writ petition. The same would be barred by the principle of *res judicata*.

8. In view of the above, no relief can be granted to the petitioner in the instant writ petition.

9. The writ petition fails and is hereby dismissed.

10. All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court.

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

(Amrita Sinha, J.)