

W.P.S.T. 238 of 2025

Sri Sankar Bhowmik @ Sankar Bhowmick
Vs.
The State of West Bengal & Ors.

Mr. Apurba Kumar Datta

...for the Petitioner

Mr. Jahar Lal De, Id. A.G.P.,
Mr. Shamim-Ul-Bari

...for the State

1. Heard the learned advocate for the applicant/writ petitioner and the learned A.G.P.
2. The facts are not in dispute that the petitioner, a Constable, was proceeded against in respect of a criminal charge for the alleged offence under Section 396 I.P.C. read with Sections 25-27 of the Arms Act. The prosecution was arising out of one Raniganj P.S. Case No. 2 of 1986. He was also proceeded against on the self-same charge by a Proceeding No. 17 of 2000 on the basis of a charge-memo dated 20.06.2000.
3. The petitioner was taken in custody in connection with the criminal case in 1986 to be released on 14.12.1987. The criminal prosecution resulted in the petitioner's acquittal in the year 2013, i.e. on 11.12.2013. He crossed the age of superannuation three years thereafter in the year 2016. An Original Application has been filed six years thereafter. The O.A. bearing No. 481 of 2022 was filed seeking issuance of direction from the West

Bengal Administrative Tribunal ('Tribunal' for short) directing for payment of pensionary/retiral dues. The same was rejected by the Tribunal by its order dated 19.06.2025 passed in O.A. No. 481 of 2022 filed by the writ petitioner. The Tribunal has rejected the Original Application in the following terms :-

“Having heard the learned counsels and after examination of the records, the Tribunal finds that the applicant joined in his service on 08.07.1978 and had been suspended with effect from 02.08.1986 after rendering his service for 8 years and 25 days. Though his suspension was officially withdrawn on 09.04.2003, he neither joined his service nor claimed his allowances. As per existing Rules, since his period of service is less than 10 years, he is not entitled to get pension. Since the application is devoid of any cogent and valid ground, the Tribunal does not interfere in the decision of the respondent authorities. Thus, the application is disposed of without passing any orders.”

4. The learned advocate for the writ petitioner/applicant submits that since the petitioner was acquitted from the charges in the criminal trial and there is no other punishment inflicted upon the petitioner, he is entitled to counting of the entire service as qualifying service for the purposes of grant of pension. The Tribunal has fallen in error by rejecting the petitioner's Original Application.
5. The learned advocate representing the respondents/State submits that the petitioner

never joined the service after he was placed on suspension. Prior thereto he had served for nearly 8 years and 25 days. Neither after revocation of suspension, nor after his acquittal in the criminal trial, the petitioner ever made any attempt to join back in service. In the above facts and circumstances, which are not in dispute, there is no occasion for the petitioner to maintain an application before the Tribunal for grant of pensionary benefits by counting any period in excess of 8 years 25 days to be qualifying service.

6. The learned advocate for the petitioner has also relied upon two Judgements. One rendered by a co-ordinate Bench of this Court in ***CAN 10279 of 2018 in M.A.T. 1352 of 2018*** in the case of ***the Municipal Commissioner, Kolkata Municipal Corporation & Ors. Vs. Tapan Kumar Paul alias Tapan Paul & Ors.*** disposed of by a Judgement dated 20.09.2019. He has also relied upon a decision of the Apex Court in the case of ***Prem Nath Bali Vs. Registrar, High Court of Delhi & Anr.*** reported in ***AIR 2016 Supreme Court (SC) 101.***
7. We have considered the rival submissions and the Judgements cited at the bar by the learned advocate for the writ petitioner. The facts noted above are not in dispute. It is, therefore, a clear

case where the petitioner has not made any attempt to rejoin his post after revocation of suspension and even after his acquittal in the criminal trial. The Judgement of the co-ordinate Bench relied upon by the petitioner, therefore, is of no avail to the petitioner. From a bare perusal of the Judgement of the co-ordinate Bench in the case of ***the Municipal Commissioner*** (*supra*), it is more than obvious that the writ petitioner therein continued to attend his office even during the period of suspension and thereafter. The Judgement reveals that during the period of suspension, he had also invoked the jurisdiction of the High Court for enhancement/revision of his pension. The present petitioner, on the other hand has never joined the office after his suspension.

8. Insofar as the Judgement of the Apex Court in the case of ***Prem Nath Bali*** (*supra*) is concerned, we find that this Judgement also does not help the case of the petitioner. The Judgement in the case of ***Prem Nath Bali*** (*supra*) was rendered giving benefit for the period of suspension to the petitioner therein by the Apex Court taking into consideration the inordinate delay in conclusion of the enquiry by the authorities, which it was found was wholly attributable to the employer. The petitioner was not in any way liable for the delay

in conclusion of the enquiry causing a long continuance of suspension for about nine years. The Apex Court, thus, held that having regard to the provisions contained in the Disciplinary Conduct and Appeal Rules which fell for consideration therein and also otherwise, it was incumbent upon an employer to make all sincere endeavours to conclude a departmental proceeding within a reasonable time.

9. It was under such circumstance that the Apex Court granted benefit for the period of suspension to the writ petitioner/appellant therein. The facts, therefore, are in contrast to the facts falling for consideration in the present case, as noted above, wherein the writ petitioner has never attended or joined his duties after being placed under suspension.
10. We, therefore, find no infirmity in the order of the Tribunal rejecting the petitioner's claim.
11. We only add that even otherwise the application filed by the petitioner before the Tribunal was barred by limitation as having not complied with the requirements as contained in Sections 20 and 21 of the Administrative Tribunals Act. The applications applicant did not disclose, remedies exhausted or that the application before the Tribunal was filed within the limitation.

12. The Writ Petition is dismissed.

(Madhuresh Prasad, J.)

(Prasenjit Biswas, J.)