

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

Present:

The Hon'ble Justice Rai Chattopadhyay

WPO 124 of 2021

IA No. GA/1/2022

Suvra Kumar Dey

Vs.

The State of West Bengal & Ors.

For the Petitioner : Mr. Debdutta Basu

For the respondent/Corporation : Mr. Kalyan Bandyopadhyay, Sr. Adv
: Ms. Debolina Chattaraj

Judgment on : **05.05.2026**

Rai Chattopadhyay, J. :-

- 1) According to the writ petitioner, the respondent/West Bengal Transport Corporation Limited [formerly known as the Calcutta Tramways Company (1978) Limited] has exercised jurisdiction not vested in it by the Rules of the Corporation, thereby violating the existing and settled Rules; by this way, the respondent has deprived the writ petitioner from his legitimate claim of pension; that, the alleged arbitrary and illegal activities of the respondent authority being de hors the settled principles of law and beyond the four corners of the statute, is liable to be set aside and quashed. The writ petitioner has prayed for relief in this writ petition that Writ of Mandamus be issued, commending the respondent/Corporation to treat the writ petitioner as an optee for the pension scheme (2002), on the basis of the option form submitted by him and if necessary, by reconstructing his pension file. Also, to release current pension to the petitioner along with arrear from November, 2020. The writ petitioner

has further prayed for the relief that the order dated January 16, 2020, passed by the Managing Director of the Corporation be set aside.

- 2)** The said order of the Managing Director dated January 16, 2020 assumes importance in the context of the instant writ petition. The Managing Director was acting pursuant to the order of this Court dated August 07, 2019 in writ petition No. W.P. 346 of 2014. The Managing Director says in the said order dated January 16, 2020 that, pursuant to the order of this Court, a committee was constituted for enquiry with regard to entry made in the peon book on June 20, 2002 and the photocopy of the option form said to have been submitted before the said respondent/Corporation by the present petitioner and relied on by him in the instant writ petition.
- 3)** The Managing Director has recorded the finding of the committee that, in Page No. 77 of the peon book, there was no signature of receiving at Nonapukur office, although in Page Nos. 76 and 78, receipts at Nonapukur office was found; that from the attendance register of the then R/S-T.G., it appears that the petitioner was then officiating as a clerk in T.G. depot on June 20, 2002 and he himself has made entries in the peon book on June 20, 2002 and June 25, 2002. It is further written that, normally the custodian of peon book was the Foreman but it was maintained and entered by R/S Clerk. Therefore, the petitioner as the Clerk, had absolute access to the peon book at all material point of time.
- 4)** The Managing Director further writes in the said order dated January 16, 2020 that, verification with regard to the photocopy of the pension option form was done by the Chief Accounts Officer, West Bengal Transport Corporation Limited who has reported that, no verification is possible of the said document as the original option form was not found in the record. The Managing Director in the said order has

noted further that, in absence of the original option form claimed to have been submitted by the present petitioner, the Authority was left only with the issue whether the entry made in the peon book dated June 20, 2002 in Page 77 as relied upon by the present petitioner, was genuine or not. In this regard, finding of the Managing Director is that, the entry made in the peon book on June 20, 2002 and June 25, 2002 were made by the present petitioner himself, he being officiating as the Clerk of the depot on those dates. Further it was noted that, no signature of receiving at Nonapukur office was found in Page 77, though such receipt acknowledgment was apparent at Pages 76 and 78 of the same peon book.

- 5) Before the Managing Director, the petitioner has given his statement that, he worked in the said department from May, 2000 to January 27, 2003. During that period, he made several entries in the peon book in his own handwriting as per direction of the Foreman; that, till the time of his departure from the department, no dispute was raised by the concerned Foreman and/or the Authority in respect of making entry under his own handwriting in the peon book, as it was assigned to him as part of his duty. The Managing Director notes in the said order further that, the petitioner has agreed to have made entries in the peon book on June 20, 2002 and June 25, 2002. The Managing Director therefore, finds that the result of enquiry within the office as regards the peon book entry, is duly corroborated and proved due to the confirming statement of the petitioner as above.
- 6) The Managing Director has further considered the question of filing objection by the petitioner for not receiving yearly provident fund statement from 2003 to 2013. The petitioner, before the Managing Director mentioned about the issue being still under consideration of this Court in writ petition No. W.P. 346 of 2014, awaiting adjudication. The Managing Director notes that the petitioner produced P.F. statement for the year 1997-1998 to submit that the

same were generated in August, 2001. With regard to filing objection regarding the company's contribution and his own contribution in the monthly salary slip, the petitioner contended before the Managing Director that, the provident fund amount at the rate of 8.33 per cent used to be deducted from the basic salary of all employees, irrespective of optee or non-optee for pension; that, the said amount was reflected in the monthly pay slip, therefore, it was not possible to identify from there whether the employee was or not a pensioner.

- 7)** The Managing Director further notes the petitioner's contention regarding absence of receipt acknowledgment signature in the peon book. It is noted that, according to the petitioner, he was informed by the concerned Foreman of the department as that to be a usual practice of the Nonapukur office that, sometimes receipt signatures were not obtained in the peon book.
- 8)** The other point dealt with by the Managing Director in the said order was regarding the grievance of the petitioner that, allegedly the management have destroyed his valuable document like the pension option form which was an admitted fact. The Managing Director notes that, the petitioner could not produce any acknowledgement, showing that as a proof of receipt of his pension option form. The Managing Director has recorded in the order that, the petitioner's allegation was baseless, who had not mentioned about the specific period or name of the persons who might have been involved in such destructive act. The Managing Director has given sufficient stress upon the fact that, the petitioner was not able to produce any corroborative document like acknowledgement receipt of submission of his pension option form. On these findings, the Managing Director has held that, in absence of necessary particulars, this allegation of the petitioner was not sustainable. The photocopy of the pension option form as produced by the present petitioner before the Managing Director, has been discarded for the reasons as stated above. The Managing

Director has noted further that, regarding submission, only the entry in the peon book at Page 77 dated June 20, 2002 is available and the petitioner's grievance has to be adjudicated upon the same.

- 9)** Thereafter, the Managing Director has very elaborately discussed on the basis of the evidence disclosed before the same and finally comes to the conclusion that, upon perusal of the top most entry at Page 77 of the peon book, the absence of receiving signature by the Nonapukur office, the space utilized to record the same and non-filing of objection after receiving the provident fund statements and pay slips till 2013, it was found that the pension option form was never submitted by the present petitioner on June 20, 2002 as claimed and the top most entry on Page 77 of the peon book is afterthought, done after the last date of submission of pension option form. The Managing Director in the said order dated January 16, 2020 held further that, as most of the employees who have been posted in the department have retired, enquiry with regard to malpractice, if any, would not be a suitable order to be passed at that stage; however, the Managing Director concludes that such an enquiry would be ordered within a short period after obtaining necessary particulars from the Works Manager.
- 10)** Initially in the writ petition, the petitioner challenged this order dated January 16, 2020 of the Managing Director stating the same to have been based on no sufficient material and not on due consideration of relevant material and facts. There is further development during continuation of this proceeding which will be discussed at an appropriate place; before that, let the factual background of the case be discussed here in a nutshell, as relevant.

Factual background

- 11) The petitioner joined in the respondent Company in April, 1979 and retired from there after attaining age of superannuation on October 31, 2020. A pension scheme was introduced by the Calcutta Tramways Company (1978) Limited (now known as “West Bengal Transport Corporation Limited”) on December 24, 2001. The Authority vide memo dated March 01, 2002, introduced Death cum Retirement Scheme that is, “The Calcutta Tramways Company (1978) Limited Employees’ Pension Regulation - 2001” and gave opportunity for submission of option form to undertake the Pension Scheme within a stipulated period that is, by June 24, 2002. According to the petitioner, at the relevant point of time, he was discharging duty as a Clerk at Tollygaunj Tram Engineering Department that is, Rolling Stock Department under immediate control of the Foreman of the said Department and overall administrative control of the Works Manager. According to the petitioner, he submitted duly filled up option form to the Foreman, putting his signature in the proper column on June 20, 2002 that is, within the stipulated time fixed by the concerned Authority for submission of the option form to undertake the Pension Scheme. The petitioner further states in the writ petition that, the Foreman after receiving the option form of the petitioner, forwarded the same to the higher Authority and granted the acknowledgement thereof to the petitioner after putting his office seal and signature (*Paragraph 8, Page 7 of the writ petition*).
- 12) However, the petitioner has contended that, from the office, his option form has been misplaced. Petitioner’s application to the Managing Director dated June 24, 2013 in this regard, to search the original option form of the petitioner and record his name as a pension optee, went in vain. Therefore, the petitioner moved a writ petition before this Court being No. W.P. 346 of 2014. The same was disposed of vide order dated August 07, 2019. Since the allegation of fraud was made

against the present writ petitioner by the respondent/Corporation and as per the settled law, fraud vitiates all, the Hon'ble Court held that the alleged option form cannot be tested or verified by the Writ Court. Hence, the Court directed as follows: -

"In view of the above, the Managing Director of the company, being the respondent no-4 herein is directed to cause an inquiry to test the veracity of the option form allegedly submitted by the petitioner on 20th June, 2002 and the entry made in the peon book on even date. The said respondent shall take all necessary steps to test the genuineness of the said document.

In the event, the documents are proved to be genuine, the said respondent shall take steps for reconstruction of the service book of the petitioner by incorporating the option form therein and to act in accordance with the said option. If the documents are proved to be fabricated the said respondent shall take necessary steps to identify the person(s) involved in the said illegal act and take appropriate steps against him / them strictly in accordance with Law.

The respondent shall try to conclude the investigation process as indicated hereinabove preferably within a period of eight weeks but not later than a period of twelve weeks from the date of communication of a copy of this order."

- 13)** As a result, the Managing Director passed the said order dated January 16, 2020 after granting an opportunity of hearing to the writ petitioner.

Development during pendency of the instant writ petition

- 14)** The present writ petition has arisen from the said order dated January 16, 2020 by the Managing Committee (as discussed above) to seek for the relief as mentioned above. During pendency of the present writ petition, taking note of the finding of the Managing Director in the said order dated January 16, 2020 that, it directed for further enquiry with regard to “malpractice” within a short period of time, this Court directed the said Authority to conclude such enquiry. Therefore, during pendency of the instant writ petition, further enquiry was undertaken by the respondent/Corporation and concluded. A report to that effect in the form of an affidavit, has been filed on behalf of the respondent/Corporation. The petitioner has also been granted liberty to take out objection as to the same which he has filed in the meantime.
- 15)** The Managing Director passes a further order dated June 19, 2024 thereby concluding the enquiry undertaken as per its own contemplation in the order dated January 16, 2020 and by dint of this Court’s order dated May 06, 2024.

Analysis of order of the managing director dated June 19, 2024

- 16)** The competent authority observed that the original pension option form purportedly submitted by the petitioner was not traceable in official custody. The Chief Accounts Officer reported that, in the absence of the original document, no verification of its authenticity or submission could be undertaken. This absence constituted a significant evidentiary deficiency. The authority further scrutinized the peon book entry dated June 20, 2002 (page 77), which was relied

upon by the petitioner as proof of submission. It was noted that, unlike adjacent entries, the said entry did not bear any receiving signature from the concerned office (Nonapukur Office). This omission was considered irregular and inconsistent with established procedural practice. Additionally, it was found that the entry in question was the sole entry recorded for that date and had been made by the petitioner himself. No corroborative material, such as acknowledgment receipts or independent verification, was produced to substantiate the claim that the option form had actually been submitted. The absence of such supporting evidence further weakened the credibility of the petitioner's assertion. The findings of the internal enquiry committee were also taken into account and were found to be consistent with the report of the Works Manager. Both reports concurred in casting doubt on the authenticity of the peon book entry and the alleged submission of the option form. On the basis of the foregoing, the authority concluded that the option form was not submitted on June 20, 2002, and that the corresponding peon book entry appeared to be an afterthought rather than a genuine contemporaneous record. During the course of the hearing, the petitioner admitted to having made the entry himself and was unable to provide satisfactory details regarding the procurement or submission of the form. These statements were found to be insufficient to support his claim.

- 17)** The authority also addressed objections raised by the petitioner concerning the conduct of the hearing. It held that the unsigned draft statement provided to the petitioner was only for the purpose of correction and verification, and that the proceedings were conducted in compliance with the directions of the court. Additional statements sought to be introduced subsequently were not accepted, as they were not part of the original deposition. It was further held that the enquiry process was conducted in a fair and proper manner, affording the petitioner adequate opportunity to present his case. The authority also recorded that the steps taken were in substantial compliance with the

earlier court order dated August 7, 2019, including the issuance of the order dated January 16, 2020. While noting certain irregularities, the authority observed that a detailed disciplinary enquiry into alleged malpractice was not immediately pursued due to the retirement of most personnel involved. However, it was left open to initiate such proceedings in the future upon availability of requisite particulars. In conclusion, the Managing Director rejected the petitioner's claim regarding submission of the pension option form and upheld the findings of the enquiry as legally valid and procedurally sound.

The petitioner's argument:

- 18)** The writ petitioner's argument by Mr. Debduitta Basu, learned advocate is principally based on 4 to 5 points. Firstly, he submits about the petitioner's employment and pension option submission. The petitioner was a permanent employee of the respondent Corporation since 1979 and retired on October 31, 2020. The petitioner submitted his pension option form on June 20, 2002, within the stipulated period, and has documentary evidence including a signed and sealed option form and peon book entry, to support this claim. Thereafter the petitioner has emphasised about loss and mishandling of documents by the Corporation. Allegedly, the respondent Corporation has a history of losing important documents, including the petitioner's pension option form and other vital records. The management has admitted in writing to the loss of documents, and allegedly also, similar issues have affected other employees as well. This pattern of mishandling is central to the petitioner's grievance.
- 19)** The petitioner's further argument is with regard to alleged failure to properly investigate and reconstruct records. Mr. Basu, learned advocate has stated that despite Court orders and multiple requests by the petitioner, the Corporation failed to conduct a proper enquiry

into the genuineness of the option form, did not consult handwriting experts, and did not verify signatures with the relevant Foreman. The petitioner's repeated requests for reconstruction of his pension file using available evidence were ignored or mishandled. The petitioner has also challenged the Enquiry Committee's inconclusive findings and procedural irregularities as alleged. An enquiry committee was formed as per Court's direction, but only 2 out of 6 members submitted reports, both of which were inconclusive due to the age of the matter and lack of original documents. The petitioner has submitted that the Managing Director's final report did not declare the option form as forged but questioned the timing of the peon book entry without concrete evidence, and failed to follow proper procedures for document verification.

- 20)** The petitioner submits to have pursued multiple legal remedies, including writ petitions and contempt proceedings. The High Court directed the Corporation to test the genuineness of the documents and reconstruct the service book if found genuine. However, the Corporation delayed and reopened settled issues without legal basis, leading to further litigation. The petitioner argues that the reports against him are based on presumption, not evidence. The petitioner has argued that he complied with all requirements, the corporation's administrative failures caused his predicament, and the legal process has not provided effective redress due to procedural lapses and lack of proper investigation. The writ petitioner's prayer is to recognize him as a pension optee and release his pension.
- 21)** Mr. Basu, learned advocate for the petitioner has relied on the following judgments in support of his contention inter alia that, pension of a person is not a bounty but his Right guaranteed under the Constitution of India; the peon book Page 77 relied on by the respondent authority is a doubtful document due to non-examination of the signatory/Foreman; the signatory of the peon book being not

examined in enquiry, adverse presumption is required to be drawn; book (specifically the peon book in this case) having been maintained in regular course of business are to be taken as containing correct entries therein, unless there are strong and sufficient reasons to indicate those to be unreliable. It has also been submitted that a document admissible under Section 35 of the Evidence Act, 1872 can be relied upon safely when made “ante litem motam” (before the law suit was started; the doctrine is that if something was done before a legal dispute arose, then it was done at a time when the declarant had no motive to lie). The judgments are –

- i) ***Hardip Singh Vs. State of Punjab*** reported at **(2008) 8 SCC 557**,
- ii) ***Noor Aga Vs. State of Punjab & Anr.*** reported at **(2008) 16 SCC 417**,
- iii) ***Murugan alias Settu Vs. State of Tamil Nadu*** reported at **(2011) 6 SCC 111**,
- iv) ***State of Rajasthan and Others Vs. Mahendra Nath Sharma*** reported at **(2015) 9 SCC 540**,
- v) ***Dilip Sankar Das & Ors. Vs. State of West Bengal & Ors.*** in **A.P.O. 302 of 2015** dated **22.02.2016**,
- vi) ***Gian Chand and Brothers and Anr. Vs. Rattan Lal alias Rattan Singh*** reported at **(2013) 2 SCC 606**,
- vii) ***Ramesh Chandra Agarwal Vs. Regency Hospital Limited and Others*** reported at **(2009) 9 SCC 709**.

The respondent's argument:

- 22)** The respondents argue that the petitioner's claim regarding submission of the pension option form is not credible and lacks

authenticity. They rely on the findings of an internal inquiry conducted pursuant to court directions, which concluded that the option form was not genuinely submitted within the prescribed time. According to the respondents, the petitioner's assertion that he duly filed the form and recorded it in the peon book is false, and the alleged documentation appears to have been manipulated after the fact.

23) To support this, the respondents highlight several inconsistencies: the peon book entry was made by the petitioner himself on a day when he was responsible for entries, raising suspicion; the entry lacks the usual receiving signature found in similar records; it is awkwardly placed in a cramped space rather than written normally; and the foreman's signature on the entry does not match verified signatures elsewhere, suggesting forgery. Based on these discrepancies, the respondents maintain that both the option form and the corresponding record are fabricated and cannot be relied upon.

24) The following judgments have been referred to buttress the argument that, the present dispute involves questions of fact to be determined on evidence for which this Court exercising writ jurisdiction is not an appropriate Court; also that, the order passed by the Managing Director dated June 19, 2024 having not been challenged by the petitioner, may not be interfered with by this Court. The judgments are as follows:-

i) Shri Sitaram Sugar Company Ltd. Vs. Union of India & Ors. reported at **(1990) 3 SCC 223**,

ii) National Legal Services Authority (NALSA) Vs. Union of India & Ors. reported at **(2014) 15 SCC 44**,

iii) Collector of Customs & Ors. Vs. Biswanath Mukherjee reported at **1974 CLJ 251**

Findings and decision:

- 25)** In both the orders dated January 16, 2020 and June 19, 2024, the Managing Director of the respondent Corporation has substantially founded his decision in evidentiary gaps, procedural compliance, and consistency of findings. The most compelling point is absence of primary or best evidence. The original pension option form is not available in official records. In administrative and evidentiary law, primary documentary evidence carries the highest probative value. Without the original document, the petitioner's claim lacks foundational proof, and the burden of proof remains undischarged. The second is defective and unreliable supporting record (Peon Book entry). The peon book entry dated June 20, 2002 is inherently unreliable because it lacks a receiving signature from the concerned office and it deviates from the standard practice, as adjacent entries contain proper acknowledgments. A mere entry, without a receiving signature or acknowledgment, does not establish delivery. Office procedure clearly requires receipt endorsement. The deviation from standard practice—especially when adjacent entries contain signatures—renders this entry unreliable. Unacknowledged internal entries do not prove official receipt. This inconsistency justifies the authority's conclusion that the entry cannot be treated as valid proof of submission.
- 26)** Next is, the fact that the entry was made by the petitioner himself significantly weakens its evidentiary value. Such unilateral entries are self-serving statements, which require independent corroboration, which is not available there, in the case. As a matter of fact, there is complete lack of corroboration in this case. There is no acknowledgment receipt, no dispatch register confirmation and no witness or independent verification. This total absence of corroborative evidence strengthens the authority's inference that the claim is not

genuine and which is rightly so. Both the enquiry committee and the Works Manager have arrived at consistent conclusions. Such concurrent findings of fact are given significant weight in judicial review. This is not to be interfered with, unless shown to be perverse. The petitioner has admitted that he made the entry himself and that he could not recall details regarding submission of pension option form by himself. This admission directly undermines his own case and supports the authority's conclusion.

- 27)** The authority has conducted a hearing, allowed the petitioner to present his case, provided opportunity to review statements. This demonstrates procedural fairness and compliance with principles of natural justice (*audi alteram partem*) by the respondent authority, making its decision procedurally robust. The decision is based on record analysis, enquiry reports and the petitioner's statements. This qualifies as a reasoned and speaking order, and duly fortifies the requirements as to its validity.
- 28)** The petitioner's contention about negligence of the department due to the alleged misplacement of his option form and that he should not suffer for the same is hardly convincing. Even if loss is assumed, the petitioner must first establish his foremost submission through credible evidence. In this case absence of any acknowledgment receipt copy and any other corroborative record have rendered such foundational fact of submission itself as unproven. The plea of departmental negligence cannot substitute for proof of initial filing. The petitioner has strongly relied on that the matter relates to 2002 and the delay has caused loss of evidence and prejudice. The delay does not dilute the requirement of proof. The petitioner's inability to produce any reliable supporting material after such delay weakens, rather than strengthens, his case.

- 29)** As regards the contention of the writ petitioner regarding unfairness of the proceedings of enquiry, the record shows that hearing was conducted, the petitioner participated and was allowed to review and correct statements. Minor procedural objections do not amount to violation of natural justice unless prejudice due to any alleged unfairness in the process is demonstrated, which is absent here. Missing acknowledgment, lack of corroboration, the petitioner's own admission and the consistent enquiry reports, constitute a reasonable inference, not any conjecture.
- 30)** The order under challenge is drawn from plausible and logical inference and cannot be said to be a perverse one. The conclusion that the entry was an afterthought is a reasonable inference drawn from missing signature, lack of records and the petitioner's conduct. Since the finding is not arbitrary or perverse, it duly withstands judicial scrutiny. Thus, the authority's decision stands tall on the pillars that firstly, lack of credible evidence from the petitioner, then consistency and reliability of official findings and finally procedural fairness and legal compliance. Burden of proof lied on the petitioner, which he could not discharge with any credible evidence. Official findings are consistent, reasoned, and procedurally fair.
- 31)** On the discussions as made above, this Court is of the considered opinion that the present writ petition is meritless. Hence, the writ petition No. WPO 124 of 2021 is dismissed without any order as to costs.
- 32)** Urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)