
(2015) 02 CAL CK 0060
In the Calcutta High Court
Case No : Writ Petition 36478(W) of 2013

Pritimoy Hore

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 23-02-2015

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2015) 3 CALLT 336 : (2016) 1 WBLR 245

Hon'ble Judges : Ashoke Kumar Dasadhikari, J.

Bench : Single Bench

Advocate : Goutam Misra, for the Appellant; Pantu Deb Roy, Subrata Guha Biswas and Amit Kumar Das, Advocates for the Respondent

Final Decision : Allowed

Judgement

Ashoke Kumar Dasadhikari, J.—The writ petitioner is aggrieved by and dissatisfied with the impugned action of the respondent-College for not releasing the petitioner's arrear salary since the date of petitioner's reinstatement in service as per order of Vice-Chancellor of Calcutta University, being the appellate authority, dated 9th June, 1987 till the date of his retirement on 31st January, 2011 and for a direction upon the College authority to transmit all relevant documents in respect of petitioner's case including his service book in original to the Director of Public Instructions, Government of West Bengal for grant of pension and other benefits payable to the petitioner and also for a direction upon the respondents to pay interest at the rate of 12% p.a. on the arrear salary as well as retiral dues from the date of entitlement till the actual date of payment.

2. The brief facts involved in this case are that the petitioner was appointed as clerk-cum-typist in Bhairab Ganguly College, Belghoria, Kolkata-56 on August 10, 1973. His service was confirmed on December 10, 1974. On or about 11th May, 1981 petitioner was served with a charge-sheet issued by the Principal, Bhairab Ganguly College (in short "the College"). Thereafter petitioner was dismissed from his service with effect from 21st May, 1981 by an impugned resolution

adopted by the Governing Body of the College in its meeting held on 20th May, 1981.

3. The writ petitioner filed an appeal to the Director of Public Instructions, Government of West Bengal. Thereafter he moved before this Hon''ble Court by filing a writ application under Article 226 of the Constitution of India with a prayer that the Director of Public Instructions, Government of West Bengal be directed to dispose of his appeal as well as application for stay made in the said appeal. Notice of the said application being C.O. No. 11713(W) of 1981 having been served upon the respondent, Principal of the College and the University had appeared in the said civil order. On 1st December, 1981 the writ petition was disposed of. The learned Single Judge recorded in his order that according to the Statute 13(b) of the Statutes framed under the Calcutta University Act, 1961 appeal against the order of dismissal would have to be preferred before the Vice-Chancellor of Calcutta University within 30 days of the receipt of the order imposing punishment. Petitioner's learned Advocate at that point of time submitted before the learned Single Judge that his client would prefer an appeal before the appropriate authority. The learned Judge declined to make any observation as regards limitation, whether in computing limitation, the appellate authority ought to exclude the time during which the writ application was pending. However, the learned Judge held that the appeal was preferred before a wrong forum and as such prayer for issuance of writ of mandamus directing the respondents to expedite the hearing and disposal of the said appeal had become infructuous. It was also observed that it was not necessary for the learned Single Judge to say that the appellate authority before whom the appeal would be filed, would consider the question of limitation in accordance with law. However, the writ petitioner preferred an appeal before the Vice-Chancellor, Calcutta University against the impugned order of punishment. On 31st March, 1983 another learned Single Judge of this Hon''ble Court passed an order directing the Vice-Chancellor, Calcutta University to dispose of the appeal at an early date preferably within four weeks in accordance with the Calcutta University First Statute, 1979.

4. Being aggrieved by the said order of the learned Single Judge dated 30th March, 1982 the Principal and some members of the Governing body of the College preferred a Mandamus Appeal being F.M.A.T. No. 2277 of 1983.

5. On 30th May, 1983 Civil Order No. 11713(W) of 1981 was placed as "To be mentioned" before the learned Single Judge of this Hon''ble Court. Learned Advocate for the writ petitioner and learned Advocate for the University of Calcutta appeared, the learned Single Judge recorded Statute 13(b) of the Statutes framed under Calcutta University Act, 1966 was not applicable to Government sponsored colleges including Bhairab Ganguly College till coming into force of Calcutta University Act, 1979.

6. Learned Single Judge passed an order "However, in consideration of the facts and circumstances of the case and also of the submissions made by the learned advocates for both parties and also in consideration of the serious inconvenience

that will result with the petitioner, I direct the appellate authority under Statute 13(b) of the Calcutta University Statutes, 1966 or the Delegated Authority to dispose of the appeal preferred by the petitioner as a special case as early as possible preferably within a period of one month from the date of this order. This order is made as special case and it should not be taken in any circumstances as a precedent".

7. Being aggrieved by the said order dated 30th May, 1983 Principal of the College preferred an appeal being F.M.A.T. 1655 of 1983.

8. Both the appeals preferred by Principal and some members of the Governing Body, against those two orders of the learned Single Bench, were taken up together for hearing and disposed of on 6th February, 1986. The Hon"ble Division Bench was pleased to set aside both orders dated 31st March, 1983 and 30th May, 1983. The Hon"ble Division Bench also passed the following order:-

"We understand that on 20th September, 1983, Pritimoy Hore has preferred a fresh appeal against the said order of his dismissal dated 20th May, 1981 before the Vice Chancellor, Calcutta University. The said appeal is pending. The said pending appeal also not the subject-matter of the two appeals before us. We propose to express no opinion either about the maintainability or about the merits of the said appeal. Order in these two appeals would be without prejudice to the rights and contentions of both parties in respect of the said appeal either in any separate writ application or in the said appeal itself.

For the foregoing reasons, we allow these, appeals, set aside the orders dated 31st March, 1983 and 30th May, 1983 passed by the learned trial Judges.

There will no order as to costs."

9. Thereafter, the fresh appeal filed by the petitioner was taken up and decided by the Vice-Chancellor of the Calcutta University being the appellate authority, by his order dated 9th June, 1987. The appellate authority allowed the appeal in favour of the petitioner, setting aside the order of dismissal being No. 107/81 dated 20th May, 1981 issued by the Principal of Bhairab Ganguly College, Belghoria and directed the Governing body of the College to reinstate the appellant/petitioner in his service in the post which the petitioner held prior to his dismissal from service and further directed the Governing Body of the College to pay 50% of back salary to the appellant/petitioner. It was petitioner"s claim that pursuant to the order of the Vice-Chancellor being the appellate authority dated 9th June, 1987 the petitioner joined his service on 10th June, 1987. It was alleged by the petitioner that Principal of the College refused him to sign the attendance register as a result of which the petitioner was constrained to lodge a complaint with the Officer-in-Charge, Belghoria police station, Belghoria, Calcutta-56. It was also alleged that Principal of Bhairab Ganguly College illegally and intentionally seized attendance register of non-teaching staff of the College and kept the same in his custody under lock and key and thereafter issued a circular/notice stating inter alia, as follows:-

"It is notified by the undersigned for information of Class-III staff that the attendance register of them would be kept under his custody until further notice. They would keep their respective attendance individually and submit to the undersigned when they would be asked to do so." 10. According to the aforementioned circular/notice, petitioner started maintaining his own attendance like other non-teaching staff of the college and subsequently, handed over to the Principal of the college. Petitioner retired from service on 31st January, 2011. Petitioner was not paid any salary since the date of his reinstatement in service and not even his retiral benefits were released till date.

11. Petitioner made a representation to the Secretary, Department of Higher Education, Government of West Bengal as well as to the Minister-in-Charge of Higher Education, Government of West Bengal for payment of his arrear dues and retirement benefits. Joint Secretary to the Government of West Bengal, Higher Education Department by a memo bearing No. 447-Edn. (CS)/S dated 17th June, 2011, addressed to the Principal and Ex-officio Secretary of the Governing body of the College asked the College for taking action with regard to the payment of arrear dues or claims of the petitioner. Petitioner made further representation on 9th August, 2011 to Director of Public Instruction, West Bengal claiming arrear dues and the Director of Public Instruction vide his memo No. 139-C/IGP-13/2011-12 dated 6th February, 2012 requested Principal of the College to transmit to the Higher Education Department some documents such as Governing body resolution, appointment letter of the petitioner, approval of appointment, attested copy of the service book, details of disciplinary action, decision on the appeal of the petitioner etc. for settlement of claims made by the petitioner. Thereafter by another memo bearing No. 993-C/OM-12-C/2012 dated 13th September, 2012 Director of Public Instruction, West Bengal wrote to the Principal of the College requesting him to furnish certain documents including original copy of service book of the petitioner.

12. Petitioner made another representation before the Minister-in-Charge of Higher Education Department, Government of West Bengal by his representation dated 12th September, 2012 and in terms of said representation Director of Public Instruction convened a hearing on 30th November, 2012 at 12 noon which was intimated to the petitioner by letter bearing No. 386-ILC dated 5.11.2012. Petitioner was present in the hearing on 30th November, 2012 and it appears from the minutes of the hearing that College authority was directed to submit the General Body resolution as well as information about the attendance of the petitioner in the College after 9th June, 1987. Thereafter, Director of Public Instruction by his memo No. 117-C/OM-12/C-2012 dated 6th February, 2013 informed the Joint Secretary to the Government of West Bengal, Education Department (HE) about the observation of Director of Public Instruction, West Bengal, on the basis of hearing in the matter with a request to issue necessary Government order in regard to the next course of action.

13. Petitioner again made a representation on 21st January, 2013 before the Law

Officer, Joint Secretary, Department of Higher Education and the Director of Public Instruction, West Bengal for payment of arrear salary and retiral benefits and the law department by their memo No. 317/ILC/10M-86/11 dated 5th July, 2013 for and on behalf of the Director of Public Instructions and Ex-officio Secretary, Government of West Bengal directed Principal/Secretary of the College to furnish detailed report along with service book of the petitioner in original within seven days from the date of receipt of the said letter. Despite several requests the Principal/Secretary of the College neither forwarded original service book nor provided any information either to the Director of Public Instruction, West Bengal or to the Joint Secretary, Government of West Bengal, Higher Education Department, as a result Director of Public Instruction, West Bengal wrote a letter bearing memo No. 401/ILC/10M-86/11 dated 19th September, 2013 to the Principal of the College expressing his regret as to the attitude of the said College in furnishing the original service book and other relevant document as was asked for on earlier occasion, holding the College responsible for legal action if any taken by the Petitioner.

14. Mr. Goutam Misra, learned Counsel appearing for the petitioner submitted that after the order dated 9th June, 1987 passed by the Vice-Chancellor, Calcutta University, petitioner wanted to join his service in the College and petitioner joined service on 10th June, 1987 but the Principal of the College did not allow him to sign the attendance register. However, by a notice, he informed that attendance register of Class-III staff of the College would be kept under his custody until further notice. They would keep their respective attendance individually and submit to the Principal when they would be asked to do so. Accordingly, petitioner maintained his attendance register himself and on his retirement on 31st January, 2011 he submitted his attendance register to the Principal of the College.

15. Mr. Misra submitted in spite of all formalities completed by the petitioner, he was not paid his salary since after his reinstatement in service on and from 10th June, 1987 by the College till date. It was also submitted by Mr. Misra that in spite of receiving several reminders either from the Director of Public Instruction or from the Joint Secretary to the Government of West Bengal, Department of Higher Education, the Principal of the College did not forward the original service book and other relevant papers as asked for by the said authorities for releasing salary as also pension of the petitioner as a result of which petitioner is suffering serious prejudice and financial hardship.

16. Mr. Misra submitted that the order of the appellate authority has become final, since the order was never quashed and/or set aside by any authority.

17. Mr. Misra submitted the College authorities who dismissed the petitioner from service fought all legal battles against the petitioner and they were also obliged to keep all records relating to those proceeding as well as they are obliged under law to maintain service book of the petitioner.

18. Mr. Misra submitted that the College authorities did not allow the petitioner to sign attendance register and the petitioner lodged a complaint. However, the circular was published and a direction was given to all Class-III staff to maintain their attendance by themselves. In terms of such circular petitioner maintained his attendance and submitted to the College authorities.

19. Mr. Misra submitted that the writ petitioner is entitled to get benefit of his reinstatement order passed by the Vice-Chancellor, Calcutta University on 9th June, 1987. According to Mr. Misra, the entire action of the College authorities for withholding all papers deliberately and intentionally is illegal, arbitrary and malafide and particularly with the intention of withholding arrear salary as well as pensionary benefit of the petitioner. The college authorities are obliged to submit all papers relating to the service of the petitioner, Governing Body resolution and other documents which is an obligation upon the College authorities.

20. Mr. Misra submitted that the writ petition be allowed and a direction be given upon the respondents to pay arrear salaries since the petitioner's reinstatement in service till his retirement on 31st January, 2011 and also to direct the College authorities to transmit all relevant documents in respect of the petitioner's service including his service book in original to the Director of Public Instruction, West Bengal for grant of pension and other benefits payable to the writ petitioner. Further prayer was also made by the learned Counsel appearing for the writ petitioner for a direction upon the respondents to pay interest at the rate of 12% per annum on the arrear salaries as well as retiral dues from the date of its due till the actual date of payment.

21. Although Mr. Pantu Deb Roy, learned Counsel for the State, appeared but he did not make any submission against the prayer made and/or submission advanced by the learned Counsel appearing for and on behalf of the petitioner.

22. Mr. Swapan Kr. Dutta, learned Counsel appearing for the College authorities submitted that the writ petition is not maintainable since the writ petition was moved after 26 years without explaining delay.

23. Mr. Dutta submitted that the petitioner never retired. Therefore, petitioner could not claim any retiral benefit. Petitioner was dismissed from service on 20th May, 1981.

24. Mr. Dutta submitted that petitioner's prayer for arrear salary and pensionary benefit is based on order passed by the Vice-Chancellor after such a long gap. He submitted that one Sudip Kr. Dutta was appointed in his place and he retired from service. He also submitted service book of the petitioner was not maintained by the Principal of the College. According to Mr. Dutta, order of the Vice-Chancellor is non est.

25. Mr. Dutta also submitted that the petitioner himself invited his own peril. Therefore, he is suffering consequence and prejudice.

26. Mr. Dutta also submitted that the alleged circular as regards maintaining attendance of Class III staff by themselves was never issued by the Principal of the College. He also submitted that the petitioner made an averment that he joined the service on and from 10th June, 1987 and at the same time he has stated that he was prevented from joining service. General Diary was lodged. According to Mr. Dutta, the notice/circular is a forged document. He further submitted that the College authorities moved a writ petition being C.O.5904(W) of 1986 challenging the order of the Vice-Chancellor/Pro Vice-Chancellor, Calcutta University in entertaining the appeal filed by the petitioner. He also submitted an order was passed by the learned Single Judge of this Hon''ble Court on 24th April, 1986 directing that the appellate authority may proceed with the appeal dated 29th September, 1983 and pass final order but the same will not be given effect to or communicated. Against that order College authorities preferred an appeal being F.M.A.T. 1454 of 1986. By an order of the Hon''ble Appeal Court dated 23rd May, 1986 order of the learned Trial Court dated 24th April, 1986 was modified directing that no final order be passed by the Vice-Chancellor, Calcutta University. He also submitted by an order dated 4th July, 1986 the Hon''ble Appeal Court confirmed the order dated 23rd May, 1986 and disposed of the appeal being F.M.A.T. 1454 of 1986 and the order of the Hon''ble Appeal Court having not been challenged, have attained its finality. According to him, in view of the order of the Hon''ble Appeal Court, Vice-Chancellor of the Calcutta University could not pass such order. Therefore, the question of implementation of the order dated 9th June, 1987 did not arise in 1987 nor even in 2013. He also submitted all these facts were not disclosed by the petitioner.

27. Mr. Dutta submitted that Governing Body of the College resolved on 3rd December, 1987 that the induction of the petitioner in the College was totally undesirable and his induction would vitiate the academic atmosphere and the administration of the College would collapse and it was recorded that the post of the petitioner was filled up seven years back.

28. Mr. Dutta further submitted that after such a long lapse of time it is not possible for the College authorities to keep the records relating to the service of the petitioner.

29. Mr. Dutta also submitted that the writ petitioner did not have legally enforceable right. He also submitted no demand of justice was made by the writ petitioner. On that ground also this writ petition is not maintainable.

30. Mr. Dutta cited the following decisions in support of his submissions which are noted hereunder:-

- 1) State of M.P. and Others Vs. Nandlal Jaiswal and Others,
- 2) State of Kerala and Others Vs. A.K. Gopakumar, ;
- 3) P.S. Sadasivaswamy Vs. State of Tamil Nadu, ;
- 4) State of Maharashtra Vs. Digambar, ;

5) Badat and Co. Vs. East India Trading Co., ;

6) S.P. Gupta Vs. President of India and Others, .

31. Mr. Dutta submitted that the writ petition should be dismissed with costs.

32. This Court carefully considered the facts and circumstances involved in this case, submissions made by the learned Counsel appearing for the parties and also considered the documents disclosed in this proceeding by the respective parties and also judgements cited by the learned Counsel appearing for the College authorities. It is not in dispute that the petitioner was appointed as clerk-cum-typist in the College being a Government sponsored College on 10th August, 1973. Thereafter, on 10th December, 1974 petitioner was confirmed in the said post. On 11th May, 1981 the petitioner was charge-sheeted and he was dismissed from service on 21st May, 1981. Against the order of dismissal he preferred an appeal to the Director of Public Instruction which was not disposed of. Learned Single Judge of this Court by an order dated 31st March, 1983 directed disposal of the appeal by four weeks. Subsequently, by an order dated 30th May, 1983 another learned Single Judge passed an order on the same proceeding holding that Statute 13(b) was not applicable to the Government sponsored colleges till its coming into force but directed that the petitioner's appeal be disposed of by the appellate authority under Statute 13(b) as a special case. Against both the orders Principal of the College preferred two appeals, one is F.M.A.T. 2277 of 1983 filed against the order of the learned Single Judge dated 31st March, 1983 and the other one F.M.A.T. 1655 of 1983 filed against the order dated 30th May, 1983. Both appeals were taken up together and the Hon'ble Appeal Court was pleased to set aside both the said orders. In the order of disposal of both the appeals on 6th February, 1986 the Hon'ble Appeal Court, however, observed that the writ petitioner preferred a fresh appeal on 20th September, 1983 against the order of his dismissal dated 20th May, 1981 before the Vice-Chancellor, Calcutta University. The said appeal was pending. Since the said appeal was not subject-matter of those two appeals being disposed of by the Hon'ble Appeal Court, the Hon'ble Appeal Court did not express any opinion either about the maintainability or about the merits of the said appeal. It was made clear that the order passed in those two appeals would be without prejudice to the rights and contentions of both parties in respect of the said appeal either in any separate writ application or in the said appeal itself. Therefore, the Hon'ble Appeal Court did not interfere in the pending appeal. The appeal was heard by the appellate authority being the Vice-Chancellor of the University and was decided in favour of the writ petitioner with an order of reinstatement on 9th June, 1987. It is pertinent to mention, although on behalf of College authorities it was claimed that writ petition being C.O.5904(W) of 1986 challenging the action of the Vice-Chancellor/Pro Vice-Chancellor of the Calcutta University entertaining the appeal of the writ petitioner was filed and the Learned Single Judge on 24th April, 1986 passed an order directing that the appellate authority may proceed with the appeal dated 29th September, 1983

and pass final order but the same will not be given effect to or communicated but no copy of the order was produced on repeated asking by the Court to the learned Counsel for the College. It was claimed that the College authorities preferred F.M.A.T. 1454 of 1986 against the order of the learned Single Judge dated 24th April, 1986 and the Hon''ble Appeal Court passed an order modifying the order of the learned Trial Court inter alia, directing that no final order be passed by the Vice-Chancellor of Calcutta University but on repeated asking no copy of such order was ever produced.

33. College authorities were given repeated opportunities but not a single scrap of paper was produced before this Court to show that any such order was passed either in the writ application filed by the College authorities against the Vice-Chancellor entertaining or maintaining the appeal or any order passed in Appeal modifying the order passed in the learned Single Judge.

34. Mr. Dutta referred one letter wherein some reference was given but mere reference is not enough to draw a conclusion that the writ proceeding was decided in favour of the College or the order of the Vice-Chancellor is set-at-naught. However, this Court also tried to find out from records if there is any such proceeding initiated by College authorities but no such record is available with this Hon''ble Court. Accordingly, mere mentioning of some proceedings and orders without any documentary proof, by way of producing certified copy, is not enough to hold that order passed by the appellate authority is non est. Till the end of hearing Mr. Dutta, learned Counsel appearing for the College authorities failed to produce any document showing any order in his client''s favour to the effect that the order passed by the appellate authority on 9th June, 1987 is set aside or quashed, nor even the order of learned Trial Court nor even in the order passed by the Hon''ble Appeal Court as claimed by Mr. Dutta on two dates i.e. on 23rd May, 1986 and 4th July, 1986. However, it appears from the order of the appellate authority that the order of Vice-Chancellor was communicated to the College and the petitioner and the communication was made by the University authority to implement the order. It is also evident from the resolution of the College dated 3rd December, 1987 to the effect that induction of the petitioner was undesirable and would vitiate the academic atmosphere and the administration of the College would collapse and further, the post of the petitioner was filled up seven years back. Although College authorities allegedly claimed that in the post held by the petitioner one of the employees was given promotion but that promotion if at all given, would be at the risk of the College authorities, College authorities were obliged to implement the order of the Vice-Chancellor being the appellate authority so long that order is not set aside or not quashed by any superior body or authority or any court of law. In view of such resolution of the Governing body it is unexpected that the College authority would allow the petitioner to discharge his duty rather the Principal of the College issued a notification for maintaining attendance by Class III staff by themselves. Although College authorities now claiming it was a forged document, on query Mr. Dutta submitted that Mr. D.L. Sarkar the then Principal of the College is still

surviving but he never communicated as such nor the College authorities got any affidavit affirmed by Mr. D.L. Sarkar either. Otherwise also it is evident from the resolution of the Governing body of the College that the Governing body was not willing to reinstate the writ petitioner. They were also of the view that the writ petitioner should not be allowed to perform his duty. Be that as it may, the obligation of the College authorities to maintain and keep the service book of the petitioner updated at least till the date of his dismissal is not evaporated simply because they do not want petitioner's service. If an employee is not allowed to join his duty and prevented from performing his duty, he has no other alternative but to lodge complaint. Whatever may be the position the intention of the petitioner was clear and he was ready to perform his duty but the College authorities were preventing him for which the petitioner cannot be made responsible. The College authorities were all along trying to get rid of the petitioner, therefore, issuance of such circular/notice by the Principal is not unnatural, otherwise also there is no material before this Court that the circular is forged. Although a claim was made that the action of the Calcutta University in maintaining the appeal was questioned but there is no record to show that the petitioner was made party and served with the copy of the writ petition, moreover no records were produced by College before this Court. Therefore, the plea of suppression also do not carry any weight in this regard. However, it is true that even in spite of getting the order in favour of the petitioner, the petitioner did not pray for implementation of the order before this Court since 1987 till before the date of filing the writ petition in 2013 but that cannot be a ground for denial of retiral or pensionary benefits to the writ petitioner if he is entitled under law. The conduct of the College authorities are totally illegal and unfair. Although it was an obligation upon the College to maintain service book of the petitioner working under it but they did not maintain it deliberately or they have destroyed it intentionally or even if they have maintained, they are not disclosing now, which is not only illegal but also affects the rights and entitlement of the petitioner in law to get the service benefit against his service rendered in the College. The writ petitioner although remained silence for a long time and have come up before this Court after his retirement, made representation before the Government authorities who were willing to consider the case of the petitioner for releasing his benefits if entitled under law and gave an opportunity of hearing to the College as well as the petitioner and also asked the College authorities to produce the relevant documents but the College authorities in an illegal manner withholding those documents to deny the petitioner's lawful entitlement to get his service benefits even upto the date of dismissal and thereafter. In case for the sake of argument it is accepted that his dismissal has become final, but in the instant case fact remains that the order of termination was set aside by the appellate authority and there is nothing on record before the Hon'ble Court to show that the order of appellate authority was, however, struck down by any higher forum or authority or before any court of law. The deliberate act and intentional negligence on the part of the college authorities refusing to produce the relevant documents before the State

authorities certainly caused prejudice to the employee concerned who is entitled to get his retiral benefits, even if it is held that he is not entitled to get his arrear salaries. No prejudice would be caused to the College authorities if they produce the documents relating to disciplinary proceeding, Governing body resolution, service book etc. as required by the State authorities. Under no circumstance College authorities can say and contend that they are not obliged to maintain and keep upto date service book of the petitioner who was an employee of the College. Even in case of a dismissed employee the College authorities or the employer is obliged to maintain the service book. Accordingly, the College authorities ought to have cooperated with the Government authorities and produced whatever documents they have with them and in case non-availability of service book they ought to have reconstructed the service book of the petitioner and produced before the authority.

35. It is interesting to note when the Government authorities are willing to consider the case of the petitioner and to pay the dues in accordance with law the College authorities are standing in the way and also fighting against the petitioner so that the petitioner cannot get any service benefit from the Government. The action of the College authorities is not only illegal but also arbitrary and is a deliberate attempt to deprive the petitioner from his lawful entitlement.

36. Although Mr. Dutta cited several judgements but none of the judgements show that the College authorities are not obliged to maintain service book of the petitioner who was appointed and worked under it for a considerable period of time. None of those judgements cited by Mr. Dutta either supported the contention of the College that the right, title and entitlement of the writ petitioner to get his service benefits would be evaporated after 26 years or would be denied to an employee who was lawfully employed, his order of dismissal was set aside and he was also reinstated in service. Therefore, those judgements cited by Mr. Dutta are of no assistance in favour of his clients.

37. Therefore, the College authorities are directed to produce all relevant papers asked for including the original service book and in case original service book is destroyed or misplaced by the College authorities the College authorities are directed to reconstruct service book of the petitioner and to send it to the Government authorities for consideration and releasing petitioner's pensionary benefits and other benefits except arrear salaries in accordance with law.

38. Entire exercise should be completed by six weeks from the date of communication of this order.

39. The writ petition is, thus, allowed. There would be no order as to costs.