
(2004) 08 CAL CK 0055
In the Calcutta High Court
Case No : Writ Petition No. 12591 (W) of 2000

Ramendra Nath Chattapadhyay	Vs	APPELLANT
State of West Bengal		RESPONDENT

Date of Decision : 24-08-2004

Acts Referred:

Constitution of India, 1950 — Article 14, 16

Citation : (2004) 2 ILR (Cal) 266

Hon'ble Judges : Jayanta Kumar Biswas, J

Bench : Single Bench

Advocate : Arup Kr. Lahiri, for the Appellant; Debasish Kar Gupta and Somnath De, for the Respondent

Final Decision : Allowed

Judgement

Jayanta Kumar Biswas, J.—Sixteen persons have joined together in this writ petition. Their common grievance is that they have been denied the benefits of the pay scale to which they are entitled in law.

2. In the Revision of Pay and Allowances Rules, 1981 framed and notified by the government of West Bengal, the process servers working in various courts and offices were given the benefits of scale-2, while the benefits of scale-6 were given to the seal bailiffs working in the City Civil Court, and the Presidency Small Causes Court at Calcutta.

3. An association of the process servers moved this Court in 1981 by filing a writ petition. It was claimed that the process servers, doing the same works as the seal bailiffs, were entitled to the benefits of scale-6. The writ petition was allowed by judgment and order dated September 24, 1986. The state unsuccessfully moved an appeal in this Court, and then a SLP before the Supreme Court. Finally the benefits were extended to the members of the association that moved the 1981 writ petition.

4. Since the benefits were not extended to all the process servers, from time to

time the process servers working in various courts and offices moved this Court by filing writ petition; in them orders were passed on June 26, 1989 (by Kalyanmoy Ganguly, J. as his Lordship then was), on November 27, 1991 (by M.R. M'allick, J. as his Lordship then was) and on March 25, 1992 (by Ruma Pal, J. as her Lordship then was). All such orders were duly complied with by the state.

5. On December 2, 1992 the government issued a circular that all the process servers performing duties identical with those of the seal bailiffs would be entitled to the benefits of scale-6. The benefits were, however, not extended to the Petitioners, who are process servers working in various courts of the state. Feeling aggrieved, they took out the present writ petition.

6. Learned advocate submits that the benefits cannot be denied to the Petitioners on the ground that they was not parties in the 1981 writ petition. Learned advocate for the state submits that the benefits would not stand automatically extended to ail the process servers, and they would remain restricted only to the Petitioners of the 1981 writ petition. He relies on the decision reported at Regional Director, E.S.I.C., Trichur v. Ramanuja Match Industries AIR 1985 S.C. 281 (Para. 11)

7. I am unable to agree with the learned advocate for the state that the benefits of scale-6 must remain restricted only to the Petitioners of the 1981 writ petition. The decision relied on does not support the contention of the state. Decision was given by this Court in the 1981 writ petition that process servers performing same duties as the seal bailiffs working in the City Civil Court, and the Presidency Small Causes Court at Calcutta, would be entitled to the benefits of scale-6. A large number of the process servers working in various courts and offices were given the benefits in compliance with the judgment and order dated September 24, 1986, and the subsequent orders passed in several subsequent writ petitions. The decision given in the 1981 writ petition was declaratory in nature.

8. In my view, the benefits granted to a large section of the process servers should have been extended by the state on its own to all the similarly situated process servers. On the ground that the Petitioners were not parties in the 1981 writ petition they should not have been denied the benefits. The state's obligation and duty to treat the Petitioners equally arose out of Articles 14 and 16 of the Constitution of India. The decisions reported K.I. Shephard and Others Vs. Union of India (UOI) and Others, and Hari Shankar Sharma and Others Vs. Artificial Limbs Manufacturing Corporation and Others, support the contention of the Petitioners.

9. Learned advocate for the state further contends that duties performed by the Petitioners are not identical with those performed by the seal bailiffs working in the City Civil Court, and the Presidency Small Causes Court at Calcutta, and hence in view of government decision dated December 2, 1992, and the fourth pay commission recommendations, they are not entitled to the benefits of

scale-6.

10. I find that in paras. 25, 29, 31 and 38 of the writ petition the Petitioners have specifically stated that they perform duties which are identical with the duties of the seal bailiffs, and the other process servers, who have been favoured with the benefits of scale-6. Since such claim has remained uncontroverted, there is no scope to contend that the Petitioners should not get the benefits of scale-6.

Learned advocate for the state lastly submits that similar writ petitions were moved by some similarly placed process servers, and by orders dated June 3, 1998, and June 24, 2002, learned single judges of this Court declined to grant the benefits of scale-6 to them.

11. After going through the orders dated June 3, 1998, and June 24, 2002, I find that they do not advance the case of the state in any manner. By the order dated June 3, 1998 nothing was decided, and only direction was given to the state to consider the case of the Petitioners in the writ petition concerned. The other writ petition, in which the order dated June 24, 2002 was passed, was moved by some temporary process servers ; on facts, it was held that they failed to establish that duties performed by them were identical with those performed by the seal bailiffs, and the other process servers, who got the benefits of scale-6.

12. For the foregoing reasons, this writ petition is allowed. The Respondents are hereby directed to extend the benefits of scale-6 to the Petitioners from the dates they would be entitled. The benefits shall be extended within eight weeks from the date of receipt of copy of this judgment and order by the Respondents. There will be no order for costs.

13. Urgent certified xerox copy of this judgment and order shall be supplied to the parties, if applied for.