

(2013) 10 CAL CK 0016
In the Calcutta High Court
Case No : Writ Petition No. 16893 (W) of 2011

Sri Panchanan Pal

APPELLANT

Vs

The State of West Bengal and Others

RESPONDENT

Date of Decision : 08-10-2013

Acts Referred:

Citation : (2013) 10 CAL CK 0016

Hon'ble Judges : Sambuddha Chakrabarti, J

Bench : Single Bench

Advocate : Amit Prakash Labiri, Mr. Mrinmoy Bhattacharyya and Mr. Nibedita Chandan Dey, for the Appellant; Amitava Chaudhuri and Ms. Monoleena Chaudhuri, Ekramul Bari and Mr. Shamiul Bari, Sandip Kumar Bhattacharyya, Advocate for the Respondent No. 7, for the Respondent

Final Decision : Disposed Off

Judgement

Sambuddha Chakrabarti, J.—By this writ petition the petitioner has inter alia prayed for a writ in the nature of Mandamus commanding the respondent No. 5 to complete the Service Book of the petitioner immediately so that he can get his pensionary benefits at an early date and to take immediate steps to disburse the same in favour of the petitioner upon declaring that he had been falsely implicated in a criminal case and for other reliefs. The case of the petitioner inter alia is that he was a teacher of Kandi Raj College and retired on January 31, 2011. He had held the post of Teacher-in-Charge of the said college in two terms. After the new Teacher-in-Charge joined the college the petitioner was harassed in various ways and he did not sign the Service Book of the petitioner as a result of which he did not get his pensionary benefits.

2. The petitioner alleges that on March 10, 2009 the respondent No. 6 who was the Joint Secretary of the Students' Union of the college had falsely implicated him in a criminal case on the basis of certain unfounded and irrelevant facts. It appears from the complaint made by the respondent No. 6 that the main charge against the petitioner was defalcation of money which was released by the

Director of Public Instruction to one Subir Kanti Bagchi and improper payment to the accused No. 2 behind the back of the governing body of the college. The petitioner has mentioned certain facts for refuting the charges brought against him. According to him the petitioner had approached the present Teacher-in-Charge of the college several times but the said Teacher-in-Charge intentionally did not sign the Service Book. He made several representations to him which have not produced any result. Till now the Service Book of the petitioner has not been completed and consequently he has not been getting his pension. Assailing the inaction on the part of the respondents the petitioner has filed this present writ petition for the reliefs as mentioned before.

3. The President and the Teacher-in-Charge of the Kandi Raj College have filed an affidavit-in-opposition, affirmed by the Teacher-in-Charge of the college. According to them the papers could not be submitted to the appropriate authority due to non-cooperation of the petitioner as he did not submit all the papers. In January, 2012 the petitioner was asked to return and submit the necessary papers which were in his custody since when he was the Teacher-in-Charge of the college. It has been specifically asserted that the earlier Teacher-in-Charge namely Rabiul Haque was released from his post and the governing body took a decision to appoint Banshidhar Thakur as the Teacher-in-Charge of the college and thus the present Teacher-in-Charge took charge on January 2, 2012.

4. So far as the court case initiated against the petitioner is concerned the answering respondents refrained from making any comment as the matter was subjudice before a criminal court. They have repeated that most of the papers were in the custody of the petitioner and were handed over on January 27, 2012. As such the allegations of the petitioner are misconceived. The answering respondents have prayed for the dismissal of the writ petition.

5. The petitioner has filed an affidavit-in-reply in which he introduced various things which were not mentioned in the petition. It has been inter alia alleged that the respondent No. 6 was an outsider when he initiated the case against the petitioner and he did not take any prior permission from the governing body of the college. He has also mentioned that if the petitioner had defalcated any amount the governing body of the college never questioned the same by holding or initiating any disciplinary proceeding. It has been the further case of the petitioner that he is entitled to receive his retiral benefits under the West Bengal Non-Government College Teachers Death-cum-Retirement Benefit Scheme. The records are lying with the college and he in fact had requested the college authorities to complete the Service Book and sent it to the Director of Public Instruction but the college authority had failed to take any appropriate initiative in the matter. On July 15, 2011 the governing body of the college had taken a resolution for completing the Service Book of the petitioner wherein it was observed that when the petitioner was the Teacher-in-Charge of the college a criminal case involving financial defalcation was brought against him. A charge-sheet has been issued and the case is still pending against him in the court for

the final verdict. It was resolved that the relevant papers including the facts relating to the criminal case might be sent to the appropriate authority. The petitioner has laid the entire blame at the door of the college authority for not acting in terms of the provisions of law.

6. The petitioner's prayer for a declaration that he has been falsely implicated in the criminal case is clearly not maintainable. The truth or otherwise of the allegations made in the criminal case can only be decided by the appropriate court upon evidence. But a charge-sheet against the petitioner and another has already been filed in the court of the learned Additional Chief Judicial Magistrate, Kandi. Thus, in a case where the charge-sheet has already been submitted there is no question of making any such declaration and that too in a writ petition.

7. But the other prayer of the petitioner relating to a direction upon the respondents to complete the Service Book so that he may get his pensionary benefits is a reasonable submission. Because of the pendency of a criminal case against the petitioner he cannot be denied the retiral and pensionary benefits which have already been accrued to him. But in this respect also the petitioner has his share of responsibility. The affidavit used by the respondents Nos. 4 and 5 alleges that the documents and necessary papers were in the custody of the petitioner. It was only on January 27, 2012, as will appear from Annexure R-2 to the affidavit-in-opposition, that he submitted the documents and Service Book in office of the Teacher-in-Charge of the college. The papers have already been forwarded to the office of the Director of Public Inspection.

8. I direct the respondent No. 3 to complete the Service Book of the petitioner and all other procedural requirements so that he may get his pensionary and retiral benefits at an early date, but positively within a period of eight weeks from the date of the communication of the order.

9. With these directions the writ petition is disposed of.

10. There shall, however, be no order as to costs. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on priority basis upon compliance of all requisite formalities.