
(2014) 05 CAL CK 0057
In the Calcutta High Court
Case No : W.P. No. 2182(W) of 2007

Subodh Kumar Maiti

APPELLANT

Vs

The State of West Bengal and Others

RESPONDENT

Date of Decision : 13-05-2014

Acts Referred:

Citation : (2014) 05 CAL CK 0057

Hon'ble Judges : Sambuddha Chakrabarti, J

Bench : Single Bench

Advocate : Pradip Kumar Mondal, Advocate for the Appellant

Final Decision : Disposed Off

Judgement

Sambuddha Chakrabarti, J.—The petitioner retired as an Assistant Teacher of Sridharnagar Sailendra Vidyapith within the district of South 24 Parganas on January 31, 2001.

2. The petitioner's basic pay was approved at Rs. 520/- with effect from July 2, 1981 and at Rs. 600/- with effect from July 2, 1984. He argues that the concerned District Inspector of Schools had approved the provisional revised scale of pay on and from July 1, 1986 to Rs. 1,860/- as per ROPA, 1990 in place of Rs. 1,990/- as per ROPA, 1990.

3. It appears from the Annexure P-6 to the writ petition that the concerned District Inspector of Schools, i.e., the respondent no. 4 herein by a letter dated September, 21, 1992 supplied the necessary documents to the Director of School Education, West Bengal, i.e., the respondent no. 3 herein in connection with the change of date of option for ROPA, 1990 for three teachers including that of the petitioner.

4. For the redressal of the grievance of the petitioner he filed several writ petitions in this court. The school authority submitted the pension papers of the petitioner to the respondent no. 4 on October 18, 2004 on the basis of the last

pay drawn by him.

5. The petitioner alleges that the pension sanctioning authority sent the petitioner's Pension Payment Order wherein his basic pay was shown as Rs. 8,225/-. Against this arbitrary fixation of last pay allegedly drawn by the petitioner he made several representations requesting the authorities to pass a fresh Pension Payment Order by removing the defects from the earlier pension order.

6. Since the representations did not produce any effect he filed another writ petition in the year 2005 and a learned single judge of this court had disposed of the writ petition by an order, dated November 21, 2005, by directing the Assistant Secretary to the Government of West Bengal, School Education Department to consider and dispose of the representation of the petitioner within a time frame as fixed by the court.

7. In compliance of the said order the respondent no. 2 herein passed the order impugned on September 5, 2006 by rejecting the claim of the petitioner. The petitioner has mentioned various grounds why the order impugned in the writ petition is not sustainable. He has further alleged that as per the order and recommendation passed by the respondent no. 4 the concerned authority fixed the petitioner's date of option on July 7, 1986 in place of July 1, 1986. He further states that as per the option given on July 3, 1986 he had drawn his last pay of Rs. 8,925/- from July, 2000 to January, 2001. In spite forwarding all the necessary documents by the respondent no. 4 the concerned authority did not change the date of option in view of their own circular dated March 7, 1990.

8. The petitioner has also brought serious charge of discrimination against the respondents inasmuch as the ground of rejection as per the Government Order, dated July, 2, 2001, has not been applied to the case of another person by the same respondent by an order which has been annexed to the writ petition as Annexure P-9. There the said Government Order was never mentioned as a disentitling factor and the petitioner in that case was allowed to change the date of option as recommended by the respondent no. 4.

9. It appears that by the order impugned the concerned authority had held that change of date of option would cause a huge amount of arrear of pay and would violate the principle as laid down in a Government Order, dated July 2, 2001, and the earlier stand of the Government was reiterated.

10. In spite of being given sufficient opportunities the respondents have not filed any affidavit and did not even contest the writ petition at the hearing. So the allegations made in the writ petition remain absolutely uncontroverted.

11. I have heard Mr. Mondal, the learned advocate for the petitioner and have perused the petition. I find sufficient justification in the submissions made by the petitioner, particularly with regard to the grievance expressed by him with regard to following different yardsticks in respect of different persons which will be

borne by a comparison of Annexure P-9 with the order impugned in the writ petition.

12. Since the petitioner retired in the year 2001 and since he had already approached this court several times and since the appropriate authority by the order impugned had reiterated its earlier stand there is no point in sending the matter back to the respondents for a fresh consideration.

13. The writ petition is disposed of by directing the respondents to re-calculate the pensionary dues of the petitioner upon rectification of the last pay drawn and upon alteration of the date of option. The respondents are further directed to refund the amount recovered from the petitioner and shall not give any effect to the order impugned. The entire exercise is to be completed within a period of eight weeks from the date of the communication of the order.

14. There shall be no order as to costs.

15. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on priority basis upon compliance of all requisite formalities.