

ORDER SHEET

WEST BENGAL ADMINISTRATIVE TRIBUNAL

Bikash Bhavan, Salt Lake, Kolkata – 700 091.

Present-

The Hon'ble Justice Soumitra Pal, Chairman

The Hon'ble Sayeed Ahmed Baba, Administrative Member

Case No. – OA 708 OF 2017

SANTOSH KUMAR HAZRA & OTHERS - VERSUS - THE STATE OF WEST BENGAL & ORS.

Serial No. and

Date of order For the Applicant

: Mr.S.Ghosh

Mr.M.N.Roy

Mr.B.Nandi

Mr.I.Mitra

Advocates

17
26.11.2021

For the State respondents

: Mr.G.P.Banerjee

Mrs.S.Agarwal

Advocates

Though the matter has appeared under the heading “To be Mentioned”, it is submitted by Mr.S.Ghosh, learned advocate for the applicants that the matter may be taken up for hearing today as the applicant no.1 has superannuated and others, that is the applicant nos. 2 to 12, are on the verge of the superannuation to which Mr.G.P.Banerjee, learned advocate for the State respondents in his usual fairness does not oppose.

We find that as the matter relates to grant of pension to the applicant no.1 and so far as the other applicants are concerned, it relate to length of service and consequent grant of pension, which comes under the heading “residual matters” under Code number 4. Hence, we take up the matter for hearing.

In this application, the applicants have prayed for the certain reliefs, the relevant portion of which is as under:-

“ a) An order do issue directing the concerned respondent authorities to pass necessary order/orders granting thereby notional service benefits to the applicants retrospectively from the year 1999 or immediately after the first order of this Hon'ble Tribunal to enable the applicants to at least enjoy the pensionary benefits after their retirement.”

The case of the applicant is that since the applicants were employed in

Vs.

Case No. : **OA 708 OF 2017**

THE STATE OF WEST BENGAL & ORS.

the year 2011 by virtue of the panel prepared in the year 1999 and the respondent authorities did not gave notional service benefits to the applicants since 1999, order as prayed for be passed.

It has been stated in the application since in OA 1081 of 2003 similar circumstanced candidates had challenged belated appointment and denial of pensionary benefits and since orders were passed therein and the respondents were still reluctant to appoint them and ultimately appointed in the year 2011, necessary directions may be issued upon them to give notional seniority since 1999 when the panel was prepared. In this regard, Mr.S.Ghosh, learned advocate for the applicant has relied on the judgement dated 31st October, 2019 passed in WPST 112 of 2019 (Mr.Asim Kumar Chakrabarti -v- The State of West Bengal & Others) particularly paragraphs 11, 12 and 14 thereof in support of his submission and prays that appropriate direction may be given upon the respondents for consideration of the claim of the applicant no.1 for granting notional seniority since 1999 and for grant of pension. So far as the other applicants, that is the applicant nos. 2 to 12 are concerned, submission is order be passed by the respondents to consider their case in the light of the said judgement in Mr.Asim Kumar Chakrabarti (supra).

Mr.G.P.Banerjee, learned advocate appearing for the State respondents submits that except the applicant no.1, others are still in service and as no representation has been filed by the said applicants ventilating their grievances before the authority concerned, the application is not maintainable.

Heard learned advocates for the parties. It is an admitted position that the applicant no.1 had superannuated and the applicant nos. 2 to 12 are still in service. The question is since the panel was prepared in the year 1999 and the applicants were appointed belatedly in 2011 whether they are entitled to grant

Vs.

Case No. : OA 708 OF 2017

THE STATE OF WEST BENGAL & ORS.

of service benefits notionally since 1999. The fact is had the applicant no.1 been appointed promptly he would have been in service for more than ten years and would have been entitled to notional service benefits. So far as the other applicants are concerned it is submitted that due to belated appointment they have also suffered. We find that the law laid down in the judgement passed in Asim Kumar Chakrabarty (supra) comes to aid of the applicants.

Therefore as prayed for by on behalf of the applicants, the application is disposed of by directing the Additional Chief Secretary now redesignated as Secretary, Department of Health and Family Welfare, Government of West Bengal, Kolkata, the respondent no.1 to consider the case of the applicant no.1 for the grant of notional service benefits from 1999 in the light of the judgement passed in Asim Kumar Chakrabarty (supra) by passing a reasoned order to be communicated to the applicant no.1 within fifteen weeks from the date of presentation of a copy of this order downloaded from the website of the Tribunal along with a copy of the original application being OA-708 of 2017 along with annexures, after giving an opportunity of hearing and after verifying the records including the panel of 1999 and annexures to the Original application.

So far as the applicant nos. 2 to 12 are concerned, the respondent no. 1 shall dispose of the same by passing a reasoned order to be communicated to the parties within a period of fifteen weeks from the date of presentation of a copy of this order downloaded from the website of the Tribunal after giving an opportunity of hearing to the applicant no. 2 who shall represent the applicant nos. 3 to 12 and after verifying the records including the panel of 1999 in the light of the judgement passed in Asim Kumar Chakrabarty (supra).

BLR

(SAYEED AHMED BABA)
MEMBER(A)

(SOUMITRA PAL)
CHAIRMAN

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