29 26.11.2026

Ct. No. 18

sdas

WPA 26004 of 2024

Samarendra Nath Saha
Vs.
The State of West Bengal & Ors.

Mr. Srinjay Sengupta
Mr. Sourav Roy
Mr. Ankush Ghosh
Mr. Prasenjit Jana
Mr. Sagnik Sinha Roy
..... for the petitioner.

Mr. D. N. Ray, learned G.P.
Mr. Guddu Singh
Mr. Sourav Haldar
..... for the State

Mr. Niladri Bhattacharjee
Ms. Deblina Chattaraj
..... for the WBTC

1. The petitioner is aggrieved that having taken a promotion, for which he was eligible, the petitioner has been paid remuneration at a rate lesser than the persons of less merit, not having been promoted to the same post as the petitioner.
2. The petitioner was appointed as a Welder in the respondent no. 2, sometime in 1989. The petitioner had availed of an opportunity and after taking an examination was promoted to the post of Gas Cutter-cum-Welder in the Pay Band Scale No. 6, sometime in August, 1993.
3. Even while the petitioner was discharging his duties as a Gas Cutter-cum-Welder, by a Government Order dated April 12, 2005, bearing G.O. No. 1908-WT/TR/O/8B-

9/2000 PO. V, the department rationalised, in effect, merging the post of Welder and the post of Gas Cutter-cum-Welder into one single post. Thus, the persons who are working as Welders were automatically brought to the level of the next post of Gas Cutter-cum-Welder, which the petitioner had obtained by way of a promotion in 1993. Hence, by this Government Order, the persons at a lower scale in Pay Band Scale No. 5 were almost "promoted to the rank of Gas Cutter-cum- Welder". Hence, the promotion obtained by the petitioner in 1993 was brought at par with a lesser post on the ground of "rationalization".

4. Sometime in July, 2005, the order was issued following the Government Order by the Managing Director of the respondent no. 2, being the respondent no. 4 herein.
5. In view of the aforestated, the petitioner was able to avail of only one Career Advancement Scheme (hereinafter referred to as "CAS"), sometime in 2007.
6. Being aggrieved the petitioner had made several representations as well as an application under the Right to Information Act, 2005. The representations and the application were replied in a sketchy, if not a summary manner.
7. This led the petitioner to file a writ petition before this Hon'ble Court being WPA No. 13757 of 2011. Even as the writ petition was pending, the petitioner retired from service sometime in 2022, thereby changing the nature

of his cause of action, prompting him to withdraw the pending writ petition, with liberty to file afresh, granted by this Hon'ble Court on July 24, 2024. Immediately thereafter, the petitioner made a representation before the respondent no. 4 on September 19, 2024, which has been kept pending since. The petitioner has, thereafter, filed the instant writ petition.

8. The reason not to give the requisite pay scale to the petitioner, according to the respondent, is two-fold, as urged by Ms. Chattaraj, learned Advocate on behalf of the respondents:

   (a) The petitioner was not entitled to the same as he had taken a promotion in 1993 and was entitled to only one Career Advancement Scheme and could not have taken the second Career Advancement Scheme. It is further submitted that he had been paid for the second Career Advancement Scheme as he was not eligible for the first;

   (b) The petitioner had approached this Court after an unexplained delay, having accepted the second Career Advancement Scheme payments without any protest;

9. Though it is not in dispute that the Government Order dated April 12, 2005, is applicable to the petitioner, it could create a rather anomalous situation whereby a person who has obtained a promotion would be considered at a lesser pay scale, merely because the

Government Order merged a lower post with a higher post and gave benefits to those who were beneficiaries of this merger. Persons, who had already obtained the promotion, were kept out of this benefit and in fact, stood to loose because of this Government Order.

10. The delay pointed out by the respondents is not material as the petitioner had not slept over his rights and had pursued the same from 2007 till 2024. It is true that such persuasion was without any result. It is equally true that such persuasion may not always have been in Court of law as the first step was by way of representations, the next an application under the Right to Information Act, and only thereafter a writ petition.

11. Pendency of the representations, applications or the writ petition cannot be ascribed to any laches or negligence on the part of the petitioner and cannot be construed as a delay caused or effected by the petitioner deliberately or with any intent. In fact, during the period of delay, the petitioner demitted office, thereby causing him to withdraw the earlier writ petition and file afresh.

12. The eligibility of the petitioner as a Gas Cutter-cum-Welder, bereft of the fact that he had not taken or availed of the training as such, which is not required in his case, since, he had already worked in the promoted post of Gas Cutter-cum-Welder could not have been the ground to refuse the Career Advancement Scheme and is indeed not a ground.

13. However, since the representation of September 19, 2024, has not been considered and has been glossed over by the authorities, it would be trite to direct the respondent no. 4 to consider such application in accordance with the prevalent and extant Rules and Notifications and pass a reasoned order while disposing of the same. The representation should be disposed of by giving hearing to the petitioner with adequate prior notice.
14. The entire exercise should be concluded within a period of twelve weeks from date.
15. With the aforestated directions, the writ petition is disposed of.
16. There shall, however, be no order as to costs.
17. Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Reetobroto Kumar Mitra, J.)