

WPST 56 of 2024

(Ashok Kumar Ray Vs. The State of West
Bengal & Ors.)

**Mr. Sukumar Ghosh
Mr. Sandip Ghosh
Ms. Moumita Ghosh**

.... For the petitioner

**Mr. Tapan Kumar Mukherjee, Ld. AGP
Ms. Tuli Sinha**

..... For the respondents

The present writ petition has been preferred challenging, *inter alia*, an order dated 17th of January, 2024 passed by the learned Tribunal in the original application (hereinafter referred to as the OA) being OA 265 of 2017 and seeking a direction upon the learned Tribunal towards final disposal of the OA within a definite time frame.

Records reveal that the OA was preferred by the petitioner in the year 2017 primarily praying for the following relief:-

'A further order do issue directing the respondent authorities to reinstate your applicant immediately in service with all consequential service benefits after setting aside the Departmental Proceeding being Burdwan District Proceeding No. 15/11 dated 11.03.2011 vide D.O. No. 1481 dated 11.03.2011, findings of the enquiry, second show cause notice, final order vide DO No. 1792 dated 15.05.2013, Appellate Order vide DO No. 2208 dated 27.06.2013, Revisional Order vide DO No. 1271 dated 19.04.2014.'

By an order dated 18th April, 2017, the OA was admitted for hearing with a direction upon the parties to exchange their reply and rejoinder. Repeated adjournments were sought for by the State respondents to file such reply and ultimately the same was filed on 14th June, 2022. Thereafter, the petitioner filed the rejoinder and the matter was fixed for hearing on 15th December, 2022. On the said returnable date, the matter was taken up for consideration by the learned Tribunal sitting singly on consent of the parties. The matter was heard and fixed for hearing on 5th July, 2023 when the State respondents took a stand that the matter involves various points of law and needs to be placed before a Division Bench. Ignoring the fact that the State respondents had earlier given consent for hearing before a Bench sitting singly, the learned Tribunal directed the matter to be placed before a Bench comprising of two members on 17th January, 2024. As no Division Bench was constituted on the said date, the matter was again adjourned to 4th September, 2024.

Mr. Ghosh, learned advocate appearing for the petitioner submits that the petitioner is languishing before the learned Tribunal for a period of about 7 years and the matter has not been disposed of till date. The State respondents took repeated adjournments to file the reply and the same was filed after a delay of about five years. Even after granting consent on 15th December,

2022, the State respondents took a different stand on 5th July, 2023 and opposed hearing of the matter before the single Bench. Presently, the learned Tribunal is functioning with a single Member and there is no possibility towards constitution of the Division Bench in the near future.

Placing reliance upon a notification dated 23rd November, 2022, Mr. Ghosh submits that the matter comes within the classification in Serial no. 1 (b) - '*Departmental/Disciplinary Proceedings/ Dismissal/ Removal from Service/Suspension/ Punishment/ Reinstatement*)' and as such, the same can be heard by the learned single Bench.

He further submits that the petitioner is suffering from the dreaded disease of cancer and in consideration of such fact necessary directions may be issued for hearing of the matter before the learned single Bench and for expeditious disposal of the original application, which is pending for more than 7 years.

Mr. Mukherjee, learned Additional Government Pleader appearing for the State respondents, in his usual fairness, has placed before this Court an order dated 25th April, 2024 passed by a Bench presided over by the Hon'ble Chief Justice in a Public Interest Litigation observing *inter alia* that '*...the applications which are filed need not be adjourned to be heard by a Bench comprising of Two Members...*'. Such observation was

made taking note of an order passed in an earlier writ petition being WPA 21973 of 2023. Let the said order, as produced, be kept on record.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Access to justice is a fundamental right and the State must provide an effective adjudicatory mechanism and such process of adjudication must be accessible and speedy. However, the West Bengal Administrative Tribunal is functioning with a single Member for a substantial period of time and there is also no possibility towards constitution of a Bench of two Members (Judicial and Administrative) in the near future. As a consequence thereof, the litigants had been the worst sufferers. The State must conduct itself with high probity and candour and ensure that the litigants do not succumb to the procedural rigmarole.

The original application pertains to a departmental proceeding. The notification dated 23rd November, 2022, *inter alia*, provides that matters pertaining to departmental proceedings can be heard by a learned single Member. After granting consent for hearing of the matter before the learned single Member, the State respondents could not have retreated and taken a different stand for hearing before a Division Bench.

In the said conspectus and in the light of the order dated 25th April, 2024 passed by the Bench presided over by the Hon'ble Chief Justice in WPA(P)/125/2024, the learned single Member is directed to dispose of the original application on merits, as expeditiously as possible, preferably within a period of 4 (four) months from the date of communication of this order, without granting any unnecessary adjournments to either of the parties.

With the above observations and directions, the writ petition being **WPST 56 of 2024**, is disposed of setting aside the order 17th January, 2024 passed in OA 265 of 2017.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Supratim Bhattacharya, J.) (Tapabrata Chakraborty, J.)