

16.12.2020

Ct. No. 24

Item No. 05

pk.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA No. 8219 of 2020

Sanjib Das

-vs-

State of West Bengal & Ors.

Mr. Lalratan Mondal,

Mr. Probal Sarkar

for the Petitioner

Mr. Pinaki Dhole,

Mr. Sailendranath Chakraborty

for the State

Mr. Arindam Das,

Mr. Biswajit Sarkar

for the Municipality

The petitioner's father was an employee of the Berhampore Municipality. After his retirement, he was paid his pension. The employee was also entitled to receive arrear pension amounting to Rs. 73,250/- only as is appearing from the calculation sheet prepared by the Municipality and annexed to the writ petition at pages 16-19.

The father of the petitioner expired in the year 2015 and his mother expired in the year 2019.

The petitioner in the instant writ petition prays for a direction upon the Municipal authority to pay the arrear pension which was due and payable to his father.

The petitioner submits that the Municipality is refusing to pay the arrear dues due to paucity of funds.

The learned advocate of the Municipality does not have any instructions in the matter.

The learned advocate for the State submits that the Municipality has its own fund and it is from the fund of the Municipality that the entitlement of the employee is to be cleared.

It has been held by the Hon'ble Supreme Court in several matters that pensionary benefits are the property of the employee. The same is liable to be paid to the employee immediately after retirement. The retiral dues ought not to have been kept pending for years together.

In the instant case, the petitioner's father retired from service in the year 1991. The arrear pension was not paid to him. The employee breathed his last in the year 2015 and prior thereto the money could not be paid to him. It is high time that the Municipality takes step to release the arrear pension which was due and payable to the employee without any further delay.

The writ petition is disposed of by directing the respondent no. 5 being the Administrator of the Berhampore Municipality and the Sub-Divisional Officer, Berhampore Sadar to take immediate steps to release the dues on account of arrear pension to the legal heirs of the deceased employee within a period of three months from the date of communication of a copy of this order.

As the amount was payable to the employee long back and there has been enormous delay in making

payment, the payment due to the employee shall be paid along with interest at the rate of 5 per cent per annum to be calculated on and from the date of its accrual till the date of actual payment.

WPA No. 8219 of 2020 is thus disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)