

09 17.12.2020

Ct-24

WPA 9839 of 2020

**Smt. Pranab Kumar Dey
Vs.
The State of West Bengal & Ors.**

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Mr. Partha Sarkar
Mr. Abhijit Basu
... For the Petitioner

Mr. Arjun Roy Mukherjee
Mr. Biswajit Dutta
... For the State

On the recommendation of the selection committee of the Gayeshpur Notified Area Authority the petitioner was appointed as Mazdoor on temporary basis by a letter of appointment dated 24th March, 1981. The service of the petitioner was thereafter made permanent. The regular scale of pay was granted in favour of the petitioner in the post of Mazdoor by a letter dated 11th June, 1983.

By a further letter of appointment dated 9th June, 1984 the petitioner was appointed in the sanctioned post of Lower Division Clerk cum Typist in the office of the Gayeshpur Notified Area Authority. The petitioner was to receive the revised Municipal scale of pay with usual allowances and other facilities, as admissible under the Government of West Bengal Municipal Rules.

The petitioner retired from service on 31st January, 2020.

The grievance of the petitioner is that after retirement he has only been paid the provisional pension but the entire retiral dues has not been released in his favour till date.

A letter was issued by the Director of Local Bodies on 27th January, 2020 to the Chairman of the Gayeshpur Municipality regarding the verification of fixation of his scale of pay. It has been mentioned that on examination of the service book and the relevant papers it transpires that the service of the petitioner in CUDP-III has not yet been regularized by the Government of West Bengal. It was further mentioned that the matter was under active consideration of the Government and until and unless the matter is settled, the fixation of scale of pay cannot be verified.

The Director of Local Bodies requested the Chairman of the Municipality to depute a competent staff to take delivery of the service book and resubmit the same after taking necessary action from his end.

The petitioner categorically denies that he was in service under CUDP (Calcutta Urban Development Project). He submits that he served on deputation in CUDP for a very short period of time i.e. from 9th June, 1984 to 31st May, 1986 and all along the petitioner was in the service of the Gayeshpur Municipality.

The petitioner relies upon an unreported order dated 26th September, 2016 passed by a Hon'ble Single Bench of this Court in WP 7460(W) of 2015 in the matter of Arup Kumar Paul Vs. The State of West Bengal & Ors.

The petitioner submits that he and the aforesaid Arup Kumar Paul lie on the same footing and the retiral dues of Arup Kumar Paul have been cleared after the order was passed by the Hon'ble Court.

None appears on behalf of the Municipality, despite service.

The learned advocate representing the State does not have any instruction in the matter.

As it appears that the petitioner was in continuous service from 1981 onwards in the Gayeshpur Municipality and his services were utilized by CUDP only for a short period of time, in my opinion, the authority ought not to have delayed in payment of the retiral dues of the petitioner for such a considerable period of time.

It is settled law that an employee is entitled to receive his retiral dues immediately after his retirement. It is not open for the respondent authority to deny and delay the retiral dues of the employee after he has retired from service.

In view of the above, the instant writ petition is disposed of by directing the respondent nos. 5 & 6 to immediately take steps to regularise the service records of the petitioner and forward the same to the office of the Director of Pension, Provident Fund and Group Insurance, the respondent no. 3 herein, for necessary disbursement of the retiral dues of the petitioner.

All the dues of the petitioner must be cleared within a period of four months but not later than six months from the date of communication of a copy of this order.

The respondent nos. 5 & 6 shall also take immediate steps to clear the gratuity and all other admissible dues of the petitioner within the time, as stipulated hereinabove.

In the event, the retiral dues of the petitioner is not paid within the time, as mentioned hereinabove, the respondent authorities shall be liable to pay interest for the delay, at the rate of 8% per annum from the date it fell due till the date of actual payment.

WPA 9839 of 2020 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

(Amrita Sinha, J.)