

ORDER SHEET
WPO 415 OF 2020
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

KOUSHIK BOSE
Versus
THE STATE OF WEST BENGAL AND ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date : 16TH DECEMBER, 2020.

Appearance :
Mr. Debdutta Basu, Adv.
For the Petitioner

Mr. S. Dutta, Adv.
Mr. Debashis Sarkar, Adv.
For the State Respondents

Ms. D. Chatteraj, Adv.
For the West Bengal State Transport Corporation Limited

The Court : Affidavit-of-service filed in Court today be kept on record.

The writ petitioner is a permanent employee of the respondent Company.

The petitioner along with others filed an earlier writ petition in this Court being WP No.1844 of 2008 praying for releasing the interest on the revised pay. The writ petition was considered and disposed of by an order dated 17th February, 2009 wherein the Court was pleased to grant liberty to the petitioners to submit representation individually giving the detailed break up of the actual amount of interest that accrued in their favour. The respondents were directed to consider the claim raised by the petitioners in accordance with law. The Court further directed that if the petitioners were found entitled to receive the interest, the same shall be released within a stipulated time frame.

In compliance of the order passed by the Court, the respondent Company considered the case of the petitioner and by an order dated 9th April, 2010, the Managing Director of the Company opined that the Company was very much dependent on the Government grant to meet the dues sanctioned by the Government. It was further mentioned that the interest cannot be paid right now from the resources of the Company due to paucity of fund.

The petitioner submits that since thereafter the Corporation did not take any step to release the payment in his favour.

The petitioner relies upon orders passed by this Court in several similar writ petitions, copies of which are annexed in this writ petition.

The learned advocate representing the Corporation submits that in compliance of the order passed by the Court in similar writ petitions, the Corporation took up the matter with the State Government but in view of the pandemic, the proceeding could not be concluded.

The learned advocate representing the State respondents submits that the Corporation has its own budgetary allocation and the State Government is not supposed to provide funds to the Corporation for payment to their employees.

Be that as it may, as it appears that orders have been passed in similar matters, the instant writ petition is disposed of on the same line.

It appears from record that the Deputy Secretary, Transport Department, Government of West Bengal vide a memo being No.6887(2)-WT/8B-9/2000 dated 23rd June, 2000 revised the pay and allowances of the employees of the Calcutta Tramways Company (1978) Limited and West Bengal Surface Transport Corporation Limited.

By virtue of the said revision, the actual payment of the employee on the basis of fixation in the revised scales of pay was effective from 1st April, 2000. The arrears for the period from 1st April, 1997 to 31st March, 2000 was to be paid in five annual instalments, the first instalment being payable not before 1st November, 2002. The arrear was to be paid along with interest to be calculated from 1st April, 2000 at the same rate as admissible in respect of accumulation in the General Provident Fund Account.

It is the specific case of the petitioner that he has received the arrears but the interest has not been paid till date. The memorandum specifically mentions about the payment of arrears along with interest.

The respondent Calcutta Tramways Company (1978) Limited presently known as the West Bengal Transport Corporation submits that the Company is in shortage of fund and require the financial assistance of the State Government for clearing the dues of the employee.

The provision according to which he petitioner prays for interest as reflected in paragraph 2(viii) of the Memo No.6887(2)-WT/8B-9/2000 issued by the Deputy Secretary, Government of West Bengal, Transport Department reads as follows :-

“2(viii). Actual payment on the basis of fixation in the revised scales of pay will, however, be made with effect from 1.4.2000. The arrears for the period from 1.4.97 to 31.3.2000 will be paid in 5 annual instalments, the first instalment being payable not before 1.11.2002, along with interest to be calculated from 1.4.2000 at the same rate as admissible in respect of accumulation in the General Provident Fund Account.”

The petitioner submits that though as per the provision the respondents were supposed to clear the arrears within 5 annual instalments the same was cleared by way of more instalments than 5. The payment was made at a very staggered rate.

As the Government continued with the payment for a considerably long period of time than was mentioned in the memorandum and as the Government memorandum speaks of payment of arrears along with interest, the respondents are bound to act in accordance with the said memorandum. There would have been no occasion on the part of the employee to approach the Court for relief had the payment been made in accordance with the aforesaid memorandum.

The Government itself took the decision to pay interest as the benefit of pay fixation was extended to the employees at a delayed date. The benefit of pay fixation includes arrears along with interest. In such a situation it is not open for the State to clear a part of the dues and hold back the rest. The same is contrary to the Government memorandum.

In view of the above, the instant writ petition is disposed of by directing the respondent No.4 being the Managing Director of the WB Transport Corporation to take steps for payment of the dues on account of interest on the arrears in accordance with the aforesaid memorandum dated 23rd June, 2000 within a period of six months from the date of communication of a copy of this order.

The interest shall be payable at the rate as mentioned in the aforesaid memorandum from the date of its accrual till the date of actual payment.

The State respondents are directed to provide the necessary financial assistance to the Company, as required, for clearing the financial dues of the petitioner.

WPO 415 of 2020 is disposed of accordingly.

Urgent photostat certified copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance of all necessary formalities.

(AMRITA SINHA, J.)

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