

25.11.2021
SL No. 7
Court No. 24
(P.M.)

WPA 14076 of 2021

Jhantu Kumar Pal
Vs
The State of West Bengal & Ors.
(Via Video Conference)

Mr. Tulsi Das Maiti,
Mr. Pradip Kr. Ghosh
... for the petitioner

Mr. Swapan Kr. Dutta, AGP
Mr. Rajat Dutta
... for the State

Affidavit of service filed in Court today is taken on record.

The petitioner was appointed as Assistant Teacher by the Midnapur District Primary School Council vide memo dated 6th December, 1993 in the pay scale of Rs. 1040-1920/- plus usual allowance as admissible under rules. The petitioner was thereafter reappointed as Assistant Teacher by the Council by a memo dated 31st May, 1996 in the pay scale of Rs. 1040-1920/- plus usual allowance as admissible under rules.

The petitioner exercised option in the year 1999 whereby he elected to continue in the existing scale of pay of Rs. 1040-1920/- till 1st December, 1996 and chose to come under the revised scale of pay of Rs. 3350-6325/- with effect from 1st December, 1996.

The petitioner was thereafter transferred to act as the Assistant Teacher from one school to other in the year

1999. He was thereafter posted on transfer to act as Head Teacher of a different primary school in the year 2006. The petitioner retired from service on 31st July, 2020.

The grievance of the petitioner is that after his retirement apart from receiving his provident fund he has not received any other retiral benefits. According to the petitioner he is yet to receive his pension, gratuity and other admissible dues.

The petitioner relies upon a document dated 29th December, 2017 which was received by the petitioner on 27th January, 2021 long after his retirement. The said document discloses the observations from the Pension Cell which mentions that the pay 14th December, 1993 onwards is not correct. It is allegedly because of the aforesaid reason that the pension and gratuity of the petitioner could not be disbursed.

The learned senior advocate representing the State respondents submits, upon instruction, that the petitioner was not entitled to Grade A category scale of pay, as the petitioner did not have the requisite qualification for the same.

The aforesaid contention of the State respondents cannot be accepted by the Court. The petitioner was appointed in 1993. The objection raised for not releasing his retirement dues is that the pay of the petitioner on 14th December, 1993 onwards was incorrect.

It is the bounden duty of the employer to pay the employee his rightful entitlement. The petitioner was appointed on a particular scale of pay and he was paid according to the scale fixed by the employer. After receiving payment for his entire service tenure his retirement dues have been withheld as objection is raised on the ground of incorrect payment from 1993 onwards.

It was the duty of the employer to rectify any anomaly in disbursing the salary of an employee as long as the employee is in service. After the employee retires it is the duty and obligation of the employer to release the retiral dues immediately on superannuation of the employee. It is settled law that pension and gratuity are valuable rights in the hands of a retired employee.

The employee concerned superannuated in July, 2020 and till date he has not received his retiral dues, allegedly on the objection raised on the ground of incorrect payment since 1993 onwards. The authority ought to have acted more diligently so that the petitioner was not constrained to approach the Court for relief.

As it appears that some anomaly has been detected by the pension audit cell, accordingly the concerned respondent authority is directed to rectify the anomaly, if any, in accordance with law, at the earliest, but positively within a period of ten weeks from the date of communication of a copy of this order. Immediately after a

final decision is taken the authority shall release all the retirement dues in favour of the petitioner.

Till a decision is taken with regard to computation of retiral dues of the petitioner, the District Inspector of Schools, Primary Education, Paschim Medinipur is directed to disburse provisional pension and other admissible dues in favour of the petitioner within a fortnight from date upon compliance of all necessary formalities.

The writ petition stands disposed of.

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

(**Amrita Sinha, J.**)