

24.03.2021
Court No.16
Item No.17
AP/ss

WPST 129 of 2019

Nitesh Chandra Roy

Vs.

The State of West Bengal and Ors.

(Through Video Conference)

M/s. Sumitra Dasgupta and
Md. Hafiz Ali, Advocates

... for the petitioner present in
Court.

Mr. Swapan Kumar Dutta, Additional Government Pleader
... for the State present on
virtual mode.

Mr. Tapas Kumar Mondal, Advocate
... for the State present in
Court.

Order dated July 25, 2019 passed in O.A. No.712 of 2016 by the West Bengal State Administrative Tribunal (for short 'the Tribunal') has been challenged in the present petition.

The petitioner had filed the Original Application before the Tribunal claiming interest on delayed payment of his retiral dues. The Tribunal vide impugned order has granted interest from November 01, 2015 to May 31, 2016.

The argument raised by the learned counsel for the petitioner is that the petitioner retired after attaining the age of superannuation on October 31, 2007. Hence, his entitlement of interest on the delayed payment of retiral dues arises from November 01, 2007 and not from November 01, 2015 as has been granted by the Tribunal.

In case there was any dispute and the pay of the petitioner was re-fixed in view of order dated July 15, 2015 passed by the Tribunal in O.A. 46 of 2010 filed by the petitioner, the same relates way back to the date of his retirement as he was granted retiral dues on the basis of the revised pay.

On the other hand, learned counsel for the State submitted that though the petitioner retired from service on October 31, 2007, however he raised issue regarding fixation of his pay from the date of his entry into service. The issue remained pending before the Tribunal and was finally decided in O.A. 46 of 2010 filed by the petitioner vide order dated July 15, 2015.

Immediately thereafter, steps were taken for re-fixation of pay of the petitioner and the differential amount of gratuity and commuted value of pension was paid to him. There was inaction on the part of the petitioner for not raising the issue regarding fixation of his pay for a longtime. The State cannot be made to pay interest on delayed payment of differential amount of pension and gratuity, in the circumstances of the case.

The Tribunal awarded interest for the period from November 01, 2015 to May 31, 2016 as there was some delay in payment of differential amount of retiral dues after passing of the order by the Tribunal on July 15, 2015.

After hearing learned counsels for the parties, we do not find any case is made out by the petitioner. The petitioner was appointed on the post of Task Taker in February 1977 in Prison Department. He retired after

attaining the age of superannuation on October 31, 2007. Raising issue regarding fixation of his pay in which the petitioner should have been appointed way back in the year 1977, he raised issue by filing O.A. 1367 of 2008, which was decided on July 24, 2008. Direction was issued to release provisional pension to the petitioner till the finalization of his pension and gratuity in terms of the claim made by him. After passing of the aforesaid order, as the petitioner was not satisfied with the fixation of pay he filed O.A. 46 of 2010. The same was disposed of by the Tribunal vide order dated July 15, 2015 setting aside the order passed by the Finance Department regarding fixation of pay of the petitioner and directing that the petitioner should be deemed to be appointed in the pay scale of ₹380 -910 with all consequential benefits. It was thereafter that re-calculation of the pay of the petitioner was made from the date he was appointed in service and as a consequence on the date of his retirement differential amount of gratuity and commuted pension was calculated and besides the pension. The Pension Payment Order was issued on November 24, 2015.

The Tribunal vide impugned order awarded interest to the petitioner on the differential amount with effect from November 01, 2015 till May 31, 2016 as the amount was actually paid to the petitioner in the month of June 2016. Period of three months was granted from the date of order was passed by the Tribunal on July 15, 2015 in O.A. 46 of 2010 settling the issue regarding pay scale in which the

petitioner should have been deemed to be appointed. The claim made by the petitioner that he should be granted interest from the date of his retirement, i.e. November 01, 2007 cannot be accepted for the reason that the issue regarding proper pay scale of the petitioner ever since, he was appointed in the service was pending consideration before the Tribunal and the same was settled vide order dated July 15, 2015. The State cannot be burdened to pay any interest on the differential amount to which the petitioner may be entitled to pursuant to the order passed by the Tribunal. For delay in implementation of the aforesaid order the Tribunal has already awarded interest to the petitioner.

We do not find any merit in the present petition and the same is accordingly dismissed.

(Rajesh Bindal, J.)

(Aniruddha Roy, J.)