

IA No.GA/1/2021

In

RVWO/2/2021

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

CHIRA RANJAN BISWAS

-Versus-

THE GENERAL MANAGER (REGION), FOOD
CORPORATION OF INDIA AND ORS.

BEFORE:

The Hon'ble JUSTICE SOUMEN SEN

The Hon'ble JUSTICE SAUGATA BHATTACHARYYA

Date : 23rd March, 2021.

(Via Video Conference)

Appearance:

Mr. Sourav Mitra, Adv.

Mr. Sourav Chatterjee, Adv.

...for the petitioner.

Mr. Aniruddha Bagchi, Adv.

...for Food Corporation of India.

The Court : This is an application for review of an order dated 3rd March, 2020. Learned Counsel for the applicant has submitted that the following sentence in the order dated 3rd March, 2020 may be deleted, as such observation may go to affect the issues involved in the pending writ application filed by the applicant herein.

"The other claims towards interest cannot be considered since it appears that the forms were not filled up in time."

The appeal before us was arising out of an order passed by a learned Single Judge on 10th December, 2019 in which the writ petitioner, as a retired employee, has claimed interest on admissible dues summarised in serial nos.1 to 9 of the table mentioned in the writ petition. The learned Single Judge, after recording the submission of the learned Counsel for the petitioner that the writ petitioner does not have any grievance with regard to the payment received towards Contributory Provident Fund (CPF), declined to allow the writ petition on the ground that there has been no intentional or deliberate lapse on the part of Food Corporation of India (FCI) in releasing the terminal dues of the petitioner. However, in appeal, we modified the interim order after being satisfied that there is inexcusable delay in releasing payment in respect of at least four heads.

This review application is filed on the plea that our observation that the claim towards interest could not be allowed since it appeared that the forms were not filled up in time, is an error apparent on the face of the record as the payment of other admissible dues including gratuity and leave encashment were released after the intervention of the Court and in terms of the orders of Court. It appears from the records made available to us that the General Manager (Region), West Bengal, in its communication to the applicant, has categorically stated that the appellant finally submitted the claim towards gratuity in Form

no.27.1 for CPF payment on 4th July, 2014 and the payment was released on 1st August, 2014.

Our attention is drawn to an order passed by a learned Single Judge on 25th April, 2014 in a contempt petition filed by the writ petitioner wherein it was recorded that after the order of 11th June, 2013 there has been no attempt on the part of the employer of the writ petitioner to inform him of the formalities that he is supposed to comply with for the purpose of release of payment. This period between June, 2013 and the actual date of payment of gratuity i.e., 1st August, 2014 is required to be taken into consideration for payment of interest on gratuity and leave encashment in view of the observation made by the learned Single Judge on 25th April, 2014.

Accordingly, we hold that in addition to the order that we have passed, the appellant shall be entitled to interest at the rate of 8% per annum for the period between June, 2013 and July, 2014 on the gratuity and leave encashment amount paid to the writ petitioner on 1st August, 2014.

The order under review stands modified to the aforesaid extent.

The respondents, in terms of our order dated 3rd March, 2020, forwarded a cheque for a sum of Rs.39,377/- towards arrear interest. The said cheque was not encashed in view of the pendency of the review application. We direct the respondent authorities to issue a fresh cheque which shall include the amount

that we have allowed today in modification of our earlier order, within a period of two weeks from date.

Needless to mention that the original cheque dated 4th May, 2020 for the sum of Rs.39,377/- shall be returned to the learned Advocate representing the FCI in course of this week.

IA No.GA/1/2021 and RVWO/2/2021 are disposed of accordingly.

(SOUMEN SEN, J.)

(SAUGATA BHATTACHARYYA, J.)

A/s.