

ORDER SHEET
WPO/65/2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

PUSPEN ROY
-VS-
THE STATE OF W.B. & ORS.

BEFORE:
THE HON'BLE JUSTICE RAJASEKHAR MANTHA
DATE: FEBRUARY 26, 2021.

Mr. D. Basu, Adv.; Mr. K.P. Santra, Adv., for petitioner.
Mr. N. Bhattacharjee, Adv., Mr. S. Banerjee, Adv.
...for respondents.

The Court: The petitioner's father retired from service on March 31, 2003. Prior thereto, pending criminal proceedings, the petitioner's father was suspended from service. The petitioner's father retired while under suspension and no departmental proceeding was instituted against him.

The petitioner's father had been paid gratuity and provident fund dues on August 28, 2019 and leave encashment on January 11, 2021.

The petitioner has two-fold prayers before this Court. Since in terms of an order passed by the Managing Director of WBTC on November 27, 2020, pursuant to directions of a co-ordinate Bench of this Court, dated January 6, 2020, passed in W.P. No.564 of 2019, the petitioner therein was held entitled to full salary for the period under suspension, he should be paid the same. The petitioner herein also prays for interest on delayed payment of retirement benefits of petitioner's father. He also relies upon an unreported decision of the Hon'ble Supreme Court in **S.L.P. No.12553 of 2020(State of Andhra Pradesh -vs- D.L. Kameshwari)**, dated February 8, 2021. At paragraph 15 of the said decision, the Hon'ble Supreme Court directed simple interest @6% per annum to be paid on delayed payment of retirement benefits.

Having heard the parties, the Managing Director of WBTC, being the respondent no.4 herein, is hereby directed to pay to the petitioner full salary of the petitioner's father for the entire period during which the petitioner's father was under suspension till the date of his superannuation.

The petitioner shall be communicated of the amounts already paid to the petitioner's father while he was in service for the purpose of computation of the arrears of salary for the period under suspension. Admittedly, the petitioner's father was under suspension from April 3, 2000 to March 31, 2003.

While making the payment as above, the Managing Director of WBTC shall cause verification of the records of WBTC as to whether any subsistence allowance has been paid to the petitioner's father for the said period or not. All the amounts paid towards subsistence allowance or any other payments made including the major payments made to the petitioner's father shall be deducted from the amounts payable to the petitioner's father.

All the retirement benefits of the petitioner's father have been admittedly received by the petitioner in 2019 and 2021 respectively as indicated hereinabove. The said amounts paid to the petitioner's father shall carry interest @6% per annum from the date of superannuation, i.e. March 31, 2003 till the date of actual payment, i.e. August 28, 2019 (provident fund and gratuity) and January 11, 2021 (leave encashment).

It is expected that the aforesaid payments shall be made by the Managing Director of WBTC to the petitioner within two months from the date of receipt of a copy of this order. In default of such payment within the aforesaid period, the rate of interest indicated hereinabove shall stand increased to 8% per annum.

With the aforesaid directions, the writ petition stands disposed of.

(RAJASEKHAR MANTHA, J.)