30.11.2022
Item No. 13
Crt.No.11
b.r.

FMA 325 of 2022
with
IA No. CAN 1 of 2022

Calcutta State Transport Corporation & Ors.
-vs-
Subhas Chandra De & Ors.

Mr. Amal Kumar Sen
Mr. Sabyasachi Mondal
.... for the appellants.

Mr. Shyamal Chakraborty
...... for the Respondents.

Mr. Amal Kumar Sen, learned counsel with Mr. Sabyasachi Mondal, learned counsel, appear for the appellants.

Mr. Shyamal Chakraborty, learned counsel, appears for the respondents.

A calculation sheet has been furnished on behalf of the appellants being endorsed by the Law Superintendent, Calcutta State Transport Corporation.

Learned Counsel appearing on behalf of the appellants submits that interest pertaining to the remaining retiral benefits be calculated from the date of acquittal of the respondent in the criminal case.

Learned Counsel appearing on behalf of the respondents prays for the entire interest, which has accrued till date from his date of retirement.

On going through the record, it is revealed that a criminal proceeding was initiated by the Calcutta State Transport Corporation under Sections 120/409/467/468/471 of the Indian Penal Code and 13(1)(c) (2) of P.C. Act, 1988. Subsequently, the case under Section 409 of the IPC has not been proved against the respondents as such they have been acquitted.

Considering the fact that the criminal case being instituted on the ground of defalcation of money which was initiated by the employer and has culminated into acquittal of the accused persons, this Court is of the view that the respondents should not suffer double jeopardy by not neither receiving the entire retiral benefits at the time of retirement and by receiving interest only from the date of acquittal from the criminal case which could not be proved by the complainant/the appellants/the employer.

Learned counsel appearing on behalf of the respondents submits that the respondents are eligible to receive the entire interest accruing from their respective dates of retirement till date.

Considering the aforesaid facts and circumstances and also considering the fact that payment of retiral benefits have been delayed solely on the ground of the pending criminal case, which has since been disposed of acquitting the respondent, this Court finds it fit to award interest from the date of retirement of the respondents on the basis of the order of the Hon'ble Single Bench which stands affirmed, however, with the modification that the appellants shall pay the entire interest on the superannuation benefit from 2008 till date @ Rs.6% p.a.

Learned Counsel appearing for the appellants assures this Court that such payment shall be made within a period of four weeks from date.

It is further directed that in the event such payment is not made as directed above within the period of four weeks, the terms imposed by the Hon'ble Single Bench are to be re-imposed and the appellants shall then pay interest @ 10% p.a. till for the entire period from the date of retirement till the date of actual disbursement.

FMA 325 of 2022 along with **IA No. CAN 1 of 2022** stand accordingly **disposed of.**

All parties to act in terms of the copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with all necessary formalities.

(Supratim Bhattacharya, J.) **(Subrata Talukdar,J.)**