Ct. 05
Item Nos.14
23.02.2022
(suvendu)

WPA 300 of 2022

[Via Video Conference]

Dr. Bimal Kumar Goswami
Vs.
The State of West Bengal & Ors.

Mr. Sanjib Mal
Mr. Soumen Bhattacharya
…….for the petitioner
Mr. Swapan Kumar Datta
Mr. Tapas Kumar Dey
……….for the State

The petitioner claims interest on delayed payment of the petitioner's retirement benefit. The petitioner retired from the concerned College as Principal on 29th February, 2012. The petitioner made three representations thereafter to the Director of Public Instruction in March and April, 2012 and a representation to the President of the Governing Body of the College on 27th April, 2012. Since the petitioner's representations to the authorities went unheeded, the petitioner filed a writ petition in this Court in 2012 (W.P. 14166(W) of 2012) along with a CAN in 2015 (CAN 11480 of 2015). The writ petition and the CAN were disposed of by an order of a learned Single Judge dated 5th September, 2018 allowing the writ petition with a direction to the respondents to disburse the retirement benefit of the petitioner including the pension, gratuity and other admissible dues in terms of the last pay drawn by the petitioner. The order specifies that the petitioner's retirement dues were allowed except the interest component. The petitioner was, however, given liberty of lodging his claim for interest.

The petitioner thereafter lodged his claim for interest before the Director of Public Instruction on 11th September, 2018 which was disposed of by the impugned order dated 27th June, 2019 by which the petitioner's claim for interest was rejected by the Director of Public Instruction. The ground for rejection is that there is no provision for payment of interest for delayed disbursement of pension under the West Bengal Non-Government College Teachers' (Death-cum-Retirement Benefit) Scheme or any other existing Government Order.

These are the undisputed facts.

Learned counsel appearing for the State opposes the prayer for interest for delayed payment of retirement benefit on the ground that there was no inordinate delay on the part of the State authorities since the pension papers were received by the Director of Public Instruction on 18th September, 2018 and Pension Payment Order was issued on 1st April, 2019. Counsel submits that there were allegations against the petitioner which are reflected in the order of the learned Single Judge dated 5th September, 2018.

The College remains unrepresented despite service.

The relevant facts indicate that the petitioner despite having retired from the College on 29th February, 2012 did not get his retirement benefit till 15th May, 2019. There is straightway a delay of seven years from the date of retirement of the petitioner to the date of getting his retirement benefit. The petitioner was constrained to come before this Court in 2012 by way of a writ petition and further an application in 2015 for appropriate redress. The ground of the petitioner being involved in certain financial wrongdoing has been considered and dealt with by the learned Single Judge in the order dated 5th September, 2018. The learned Single Judge noted that the College had enough time to take action in relation to the alleged irregularities but had not taken any steps against the petitioner from 2012 to 2018. The learned Single Judge had accordingly drawn a presumption that the College authorities did not have a case to withhold the retirement benefit of the petitioner.

The impugned order dated 27th June, 2019 records that the Director of Public Instruction received the pension papers from the College on 18th September, 2018 and upon receipt of the same it was noticed that the signature in the pension booklet was incomplete. By reason of the aforesaid, the Director of Public Instruction was constrained to forward the matter to the Higher Education Department for approval. These facts show that the College authority was primarily to blame for the delay in sending pension papers to the Director of Public Instruction, the delay being six years. The Director of Public Instruction proceeded thereafter and took an additional five months to release the retirement benefit to the petitioner. The Director of Public Instruction is, therefore, responsible for the delay from September, 2018 to May, 2019, i.e. eight months. The reason given in the impugned order that the DECRB Scheme contains no provision for interest on delayed payment of retirement benefit is contrary to the several decisions of the Supreme Court on this issue.

In *State of Kerala And Others Versus M.Padmanabhan Nair* reported in *(1985) 1 Supreme Court Cases 429*, the Supreme Court held that pension and gratuity is no longer a bounty to be disbursed by the Government to its employee but have assumed the status of valuable rights and property in the hands of the employee and any culpable delay in settlement and disbursement of such dues must be visited with the penalty of payment of interest at the current market rate till actual payment. This view was reiterated in *R. Kapur Versus Director of Inspection (Painting And Publication) Income Tax And Another* reported in *(1994) 6 Supreme Court Cases 589*.

Having regard to these decisions, this Court is of the view that the impugned order of the Director of Public Instruction cannot be sustained and the petitioner should be given interest at the rate of 8% per annum from the date of his retirement till the date of actual payment. The respondent no. 2 is accordingly directed to make payment on account of interest for delayed payment of retirement benefit to the petitioner within eight weeks from date. The Director of Public Instruction shall be at liberty of realizing the admissible amount from the concerned College for the delay on the part of such College in submitting the pension papers of the petitioner to the Director of Public Instruction.

WPA 300 of 2022 is disposed of in terms of the above.

At this stage, learned counsel appearing for the State prays for stay of the aforesaid order.

Since this Court is convinced on the delay in releasing the petitioner's retirement benefit as would be evident from the relevant dates, such prayer is considered and rejected.

Urgent photostat certified copy of this, if applied for, be given to the parties on usual undertakings.

(**Moushumi Bhattacharya, J.**)