

24.02.2022

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W.P.A. 2100 of 2022

Md. Anwarul Hoque
Vs.
State of West Bengal & ors.

Mr. Sayan De
Mr. Kaustav Shome
... for the petitioner

Mr. Pinaki Dhole
Ms. Kakali Samajpati
... for the State

Md. Sarwar Jahan
Sk. Nayeemul Hoque
... for the respondent no.4

Affidavit of service filed in Court be kept with the record.

The petitioner was implicated and convicted in a criminal case. After undergoing imprisonment of 10 years he was released on bail by the order of the Hon'ble Supreme Court on 13th September, 2021.

The petitioner attained his normal age of superannuation on 31st January, 2022. He has filed the present writ petition on 4th February, 2022 with the allegation that his pensionary dues have not been cleared by the respondents.

It appears from the submissions made on behalf of the parties that the petitioner ought to have given sometime to the respondents to consider his prayer for

grant of pensionary benefits. Immediately after attaining his age of superannuation on 31st January, 2022, he affirmed the writ petition on 3rd February, 2022 alleging non-disbursal of pensionary dues.

The petitioner relies upon an order dated 1st December, 2011 passed by a coordinate Bench of this Court in W.P. No.11207(W) of 2008 (Dilip Kumar Biswas Vs. State of West Bengal & ors.).

In the said matter, the petitioner challenged the notice of suspension which was issued under Rule 7(2) of the West Bengal Primary Education (Conduct of Service of Teachers of Primary Schools) Rules, 2001 for being detained in judicial custody for more than 48 hours in connection with a criminal case under Sections 498A/304B of the Indian Penal Code.

The Court was of the opinion that the order of suspension cannot be made alive and it perishes and dies a natural death after the employee attains his age of superannuation. It is under those circumstances, the Court quashed the order of suspension and directed the respondents to pay the arrears of salary for the period of suspension and also pay the admissible retiral dues to the petitioner.

In the present case, the authorities are yet to take a decision whether the petitioner will be entitled to his

retiral dues. The authorities must be given the reasonable time to take a decision in the matter.

As it appears that the petitioner has already attained his age of superannuation, the pension sanctioning authority being the District Inspector of Schools (P.E.), Murshidabad is directed to take necessary steps for consideration of the prayer of the petitioner for grant of pensionary dues in his favour.

The further prayer of the petitioner for withdrawing the order of suspension cannot be acceded to at this stage as the petitioner has already retired from service when he was in suspension. After retirement the relationship between the master and the servant ceased and accordingly, there is no scope to withdraw the suspension order at this stage.

W.P.A. 2100 of 2022 stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)