

Court No. 22
15.9.2022
(Item No. 38)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 640 of 2016
Mazibar Rahaman
VS
The State of West Bengal & Ors.

Mr. Prahlad Chandra Ghosh
Mr. Subir Hazra
Ms. Kakali Samajpati
..... for the petitioners
Mr. Milan Kumar Maity
..... for the State

The writ petitioner was the Headmaster at B.S.B. High School. He retired on August 31, 2013 from Narattampur Kahala B.B. High School. The petitioner claims that he had received his pension and gratuity but did not receive the Provident Fund dues payable to him. The petitioner made representation dated September 16, 2015, **Annexure P-5** to the writ petition. The petitioner submits that, the said representation had not received any attention of the respondent authorities till date.

From records it appears that on May 12, 2016 a co-ordinate Bench directed filing affidavits in the matter. A report of the department dated December 20, 2017 shows that despite such direction no affidavit was ever filed in the writ petition.

Mr. Milon Kumar Maity, learned advocate appears for the State.

None appears for the rest of the respondents.

Considering the averments made and the reliefs claimed in the writ petition and on perusal of

materials on record, it appears to this Court that, the petitioner has a right to know the fate of his representation dated September 16, 2015, **Annexure P-5** to the writ petition. In as much as, the provident Fund dues of a retired person is a statutory dues. Such dues are required to be paid immediately on retirement of an employee.

In view of the above, this Court is of the firm view that, waiting for affidavit by extending its time will be sheer waste of time for a writ petition which is already pending for about last six years on the issue mentioned above. Any further pendency of this writ petition would amount to merely multiplying the records.

This Court is of the considered opinion that, justice would be sub-served if the appropriate authority namely, the third respondent is directed to consider the issue on the basis of the said representation dated September 16, 2015, **Annexure P-5** to the writ petition after giving a prior hearing notice of at least seven days to the petitioner and the respondent Nos. 5, 6, 7 and 8 and upon granting an opportunity of hearing to all of them and to pass a reasoned decision/order on the issue.

The entire exercise, as directed above, shall be carried out and completed by the third respondent within a period of ten weeks from the date of communication of this order. The third respondent

shall then communicate his reasoned decision/order to the petitioner and the respondent Nos. 5, 6, 7 and 8 respectively within a further period of two weeks from the date of the said reasoned decision/order to be passed.

In the event, the said reasoned decision/order goes in favour of the petitioner and the quantum is crystallized then the third respondent shall immediately give effect to such reasoned decision/order and shall disburse and pay the entire entitlement to the petitioner within a further period of four weeks from the date of communication of the said reasoned decision/order to the petitioner.

It is made clear that, this Court has not gone into the merit of this writ petition. All points are kept open for the parties to argue before the respondent No. 3.

Since affidavits are not called for the allegations made in the writ petition are deemed not to have been admitted by the respondents.

On the above terms, this writ petition being **WPA 640 of 2016** stands disposed of.

There shall, however, be no order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)