

Item No. 40

05.05.2022
Ct-24

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 6144 of 2022
Jhantu Kumar Pal

v.

The State of West Bengal & Ors.

Mr. Tulsi Das Maity
Mr. Pradip Kumar Ghosh
... for the petitioner.

Mr. Rama Prasad Sarkar
Ms. A.D. Jana
... for the State respondents.

The petitioner is aggrieved by the communication dated February 8, 2022 made by the District Inspector of Schools (P.E.), Paschim Medinipur directing to refund the amount which was allegedly overdrawn by him on account of wrong fixation of pay by allowing “A” category scale of pay with effect from his date of service in May 1993 till June 30, 2004.

The petitioner attained his normal age of superannuation on December 30, 2020. As his terminal benefits were not released in his favour after his retirement, he approached this Court by filing a writ petition being WPA 14076 of 2021. The said writ petition was disposed of by this Court on November 25, 2021.

In the said order the Court recorded that:-

“It is the bounden duty of the employer to pay the employee his rightful entitlement. The petitioner was appointed on a particular scale of pay and he was paid according to the scale fixed by the employer. After receiving payment for his entire service tenure his retirement dues have been withheld as objection is raised on the ground of incorrect payment from 1993 onwards.

It was the duty of the employer to rectify any anomaly in disbursing the salary of an employee as long as the employee is in service. After the employee retires it is the duty and obligation of the employer to release the retiral dues immediately on superannuation of the employee. It is settled law that pension and gratuity are valuable rights in the hands of a retired employee.

The employee concerned superannuated in July, 2020 and till date he has not received his retiral dues, allegedly on the objection raised on the ground of incorrect payment since 1993 onwards. The authority ought to have acted more diligently so that the petitioner was not constrained to approach the Court for relief.”

The Court directed the concerned authority to rectify the anomaly, if any, within a specified time period. The Court in no uncertain terms held that it was impermissible for the respondent authority to direct the petitioner to refund any amount which was allegedly overdrawn by him on and from his date of joining i.e. from the year 1993 till June 2004.

By the impugned order the District Inspector of Schools (P.E.), Paschim Medinipur once again reiterated the same stand directing the petitioner to refund the amount which was allegedly overdrawn by him.

The conduct of the District Inspector of Schools(P.E.), Paschim Medinipur cannot be appreciated by the Court at all. The District Inspector of Schools (P.E.), Paschim Medinipur failed to appreciate the order which was passed by the Court on November 25, 2021 in WPA 14076 of 2021 and directed the petitioner to refund the amount by the communicating impugned memo dated February 8, 2022.

As the earlier direction for refund has been set aside by the Court accordingly the same ground cannot be taken by the respondent authorities to withhold payment of the terminal benefits of the retired teacher.

Accordingly, the impugned memo dated February 8, 2022 directing the petitioner to refund the amount allegedly overdrawn is set aside and quashed.

The District Inspector of Schools (P.E.), Paschim Medinipur is directed to take immediate steps for processing the pension file of the petitioner without any further delay and ensure disbursement of his terminal benefits latest within a period of four months from the date of communication of a copy of this order. Till such time final disbursement of the terminal benefits of the petitioner is not made, the District Inspector of Schools shall ensure that provisional pension is paid in favour of the petitioner.

The said respondent shall also take steps for immediate disbursal of the gratuity amount to the petitioner.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)