

20.09.2022.
Item No.11
Court No.550
Saswata

W.P.A. 9931 of 2022

**Raiyan Laskar
Versus
State of West Bengal & Ors.**

Mr. Uddipan Banerjee

... For the petitioner

Ms. A. Pandey

Ms. Amrita Pandey

...For the respondent no. 3

Mr. P.K.Gorai

... For the State

Affidavit of service filed in Court today is kept with the record.

At the very outset, Mr. Banerjee, learned advocate appearing in support of the aforesaid writ application prays for leave to correct an inadvertent error in prayer (b) of the writ petition. It appears that the date of the application in the said prayer has been erroneously shown as 4th February 2022 instead of 2nd February 2022. As prayed for, let such correction be carried out by Mr. Banerjee in course of this day.

Mr. Banerjee submits that the petitioner was an employee of the respondent no.3. he had been superannuated on 25th February 2016. Subsequent to his superannuation, the petitioner has applied in Form 'I', inter alia, praying for disbursal of his gratuity benefits. Since, the respondent no. 3 did not take any steps, an application in Form 'N' was filed before the respondent no.2 on 2nd February 2022, including therewith all particulars as are required for disposal of the aforesaid application. Despite filing of such application, since no steps were taken by

respondent no.2, a representation dated 11th March 2022 was made calling upon the respondent no.2 to dispose of the petitioner's application. Since, no steps had been taken by the said respondent, the present writ application has been filed.

Ms. Pandey, learned advocate, appearing for the respondent no.3 submits that the application for payment of gratuity was belatedly filed by the petitioner. The same was not accompanied by any application praying for condonation of delay. The petitioner is not entitled to disbursal of his gratuity benefits. The respondent no. 2 does not, otherwise have the jurisdiction to try and entertain the application filed in Form 'N'. No relief ought to be granted to the petitioner in the present writ application.

Mr. Gorai, learned advocate appearing for the State/respondent submits that the application in Form 'N' was not accompanied by any application praying for condonation of delay and for the aforesaid reason the said application has not been registered.

Mr. Banerjee submits that the aforesaid issues as raised by Ms. Pandey can be decided by the Controller, himself. He further submits that till date, the application has not been registered and it is for such reason, the petitioner could not file the application for condonation of delay.

I have heard the advocates appearing for the respective parties. I am of the view that the issues raised by Ms. Pandey can be decided by respondent no.2. In so far as non-filing of application for condonation of delay is

concerned, such defect if at all is a curable defect. The same should not stand in the way of registering a case. I, therefore, direct the respondent no. 2 to register a case, if not already registered in respect of the petitioner's application filed in Form 'N' on 2nd February 2022.

The respondent no.2 is directed to hear out and dispose of the petitioner's application on merit after taking into consideration the objections raised by Ms. Pandey, provided an application to such effect is filed by the respondent no. 3 before the respondent no.2.

The respondent no.2 is directed to dispose of the petitioner's application within a period of 4 months from the date of communication of this order.

With the above observations and/or directions the writ petition being WPA 9931 of 2022 is disposed of.

Since, I have not called for any affidavits, the allegations made in the writ petition are deemed to have been denied by the respondents.

All parties shall act on the basis of the server copy of this order duly downloaded from the official *website* of this Court.

(Raja Basu Chowdhury, J.)