

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 11863 of 2022

Asish Kumar Biswas
Vs.
Union of India & Ors.

Mr. Dilip Kumar Samanta
Mr. Amal Kumar Roy
Mr. Argha Banerjee
... For the petitioner

Mr. Santanu Kumar Mitra
Mr. Subhabrata Das
... For the respondent no.2

Mr. Om Narayan Rai
... For Indian Bank

Affidavit of service filed in Court today is taken on record.

The supplementary affidavit filed on behalf of the petitioner in order to bring on record the developments subsequent to the filing of the writ petition is also taken on record.

The petitioner joined the services of Indian Bank on 19th June, 1980 through a selection process by relying upon a Scheduled Caste certificate. The petitioner retired from the services of the said Bank on 27th April, 2018 upon attaining the age of superannuation. Although the petitioner was paid the provident fund dues but gratuity and other retiral benefits were withheld pursuant to a

complaint received by the employer Bank that the petitioner did not belong to Scheduled Caste category and, as such, had taken undue advantage in getting employment and subsequent benefits while in employment.

The issue has ultimately been resolved by a Committee constituted by the Backward Classes Welfare Department, Government of West Bengal, vide an order dated 22nd July, 2022, wherein the petitioner and the employer Bank were represented. After such issue was resolved and it was found that the petitioner belongs to Scheduled Caste category, the Bank has released all the withheld retiral benefits to the petitioner.

It is submitted by the Bank and accepted by the petitioner that the gratuity amount was paid on 30th July, 2022. The provisional pension has been sanction on 19th April, 2022 prior to passing of the order dated 22nd July, 2022.

The issue now remains is the sanction of regular pension to the petitioner and payment of interest for delay in paying the retiral benefits.

In the instant case, the retiral benefits of the petitioner were withheld without any fault on the part of the petitioner as the complaint against him with regard to the Scheduled Caste certificate has been decided in his favour. The petitioner was, therefor, deprived of the fruits

of the money he was to receive as his retiral benefits from 27th April, 2018. The petitioner is, therefor, entitled to interest in view of the ratio laid down in the judgment of the Supreme Court reported in (2022) 4 SCC 627 [Dr. A. Selvaraj v. CBM College & Ors.]. The rate of interest as held by the Hon'ble Supreme Court in the judgment reported in (2021) 11 SCC 543 (The State of Andhra Pradesh & Anr. v. Smt. Dinavahi Lakshmi Kameswari) provides for six per cent interest in case of delay in respect of dues of an employee. Without going into the fact that the Payment of Gratuity Act, 1972 provides for 10 per cent interest in case of delay, I think justice will be sub-served if six per cent interest is paid to the petitioner.

In the aforesaid facts and circumstances, Indian Bank is directed to pay interest at the rate of six per cent per annum from 27th April, 2018 till actual payment of the petitioner's retiral benefits within a period of two months from the date, failing which the interest rate will enhance to 10 per cent per annum for the same period and on the same principal sum. The regular pension has to be sanctioned also within two months and the arrears, if any, being the difference between the regular pension and the provisional pension shall also be paid with accrued interest at the rate of six per cent per annum also within two months from date.

Since the Indian Bank is represented, no further notice is required to be given to the said Bank. However,

by way of abundant caution, the petitioner shall serve a copy of this order downloaded from the official website of this Court upon the Indian Bank, the respondent no.4 and the respondent no.5.

All parties shall act on the basis of a server copy of this order duly downloaded from the official website of this Court without insisting upon production of a certified copy thereof.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

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

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)