

Court No. 17

WPA 19624 of 2022

13.12.2022

(AD 136)

(S. Banerjee)

Dolegobinda Tung

Vs.

The State of West Bengal & Ors.

Mr. Tulsidas Maiti

Ms. Namita Basu

... for the petitioner

Mr. Avishek Prasad

... for the State

In this matter the petitioner's prayer is to release arrear pension from 01.10.2009 to 25.08.2014, i.e., from the date following the date of his retirement and not from the date of refund.

In this regard the petitioner has relied upon a judgement passed by this court in a similar matter. This matter will also be guided by the same order passed in WPA 7691 of 2022 as the petitioner has submitted that the facts are similar in both the matters. The order is as follows:

"One review application, being RVWO No. 5 of 2022, in connection with the judgement and order passed in APO 121 of 2007 which arose out of WP No. 1528 of 2002, has been filed. The State-respondents have submitted that against this Special Bench judgement they moved the Hon'ble Supreme Court but the SLP has been dismissed. However, from a copy of

the order passed by the Hon'ble Supreme Court in Special Leave Petition (Civil) Diary No(s). 1398 of 2020 it appears that the Hon'ble Supreme Court held –

“We are not inclined to interfere with the impugned judgment passed by the High Court. Special Leave Petitions are dismissed.”

From the said order it appears that this is not a plain and simple dismissal of SLP. The Hon'ble Supreme Court has categorically stated that it is not inclined to interfere with the impugned judgement passed by the High Court. Therefore, the SLP was dismissed on merit as it was not a plain and simple dismissal of SLP.

Therefore, I do not know under what provision of law such a review application could be filed after dismissal of the SLP as the Hon'ble Supreme Court was not inclined to interfere with the impugned judgement passed by the High Court. I am told that the review application has been filed with one condonation of delay application. Such review application has not been moved till date and it is an application with delay.

Therefore, under the law there is no existence of the review application unless the application for condonation of delay is allowed. In any event, I have serious doubt whether such a review application after dismissal of SLP can be filed and I hold that such a review application, after dismissal of SLP on merit as

stated above, cannot be filed. This is only an endeavor to delay the matter.

Therefore, I do not accept the contention of the State-respondents that one review application is pending from the appeal court's order as has been stated above.

This writ application is allowed.”

Learned advocate for the petitioner, Mr. Maiti, has submitted that his client is not praying for any interest on the arrear pension.

Considering such submissions of the parties, I direct the respondent nos. 3, 4 and 5 to pay the arrear of pension for the period, as has been prayed for in the writ application, after verification of such particulars for the period and to pay the arrear pension within a period of six months from date.

With the above direction and observation this writ application is disposed of.

A copy of the order relied upon by the petitioner, being order dated 29.11.2022 in WPA 7691 of 2022 is kept on record.

(Abhijit Gangopadhyay, J.)