22.03.2022
Sl. No.27
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE
(Via Video Conference)

WPA 20890 of 2021

Jagannath Mondal
Vs.
State of West Bengal & Ors.

Mr. Manas Kumar Ghosh,
Ms. Susmita Dey (Basu)
....for the petitioner.

Mr. P. K. Bhattacharyay
....for the State.

Mr. Amal Kumar Sen,
Mr. Sabyasachi Mondal
....for CSTC.

Mr. Bhaskar Nandi
....for the respondent no.6.

The petitioner retired from the services of Calcutta State Transport Corporation (in short CSTC) on 31st January, 2021. The petitioner, on his retirement, became entitled to a sum of Rs.15,34,471/- (Rs.6,14,000.00 + 9,20,471.00) on account of Provident Fund (PF). The provident fund money was required to be paid immediately upon the petitioner's retirement. However, the provident fund amount was paid in two instalments. The first instalment of Rs.6,14,000/- was paid on 8th May, 2021 and the balance amount of Rs.9,20,471/- was paid on 16th July, 2021. There has been an admitted delay in making payment of the provident fund amount. The petitioner sought interest on the provident fund amount for the period of delay in paying the same.

CSTC submits that as an employer, its responsibility was only to deduct the amount of provident fund at the applicable rate from the petitioner and deposit the same along with its contribution with the Calcutta State Transport Corporation Employees' Provident Fund Trust (hereinafter referred to as the said Trust), being a trust created for the purpose of managing the corpus of provident fund of CSTC. The moment a trust is created for the purpose of managing the corpus of provident fund, the organisation is considered to be an exempted one, wherein the role of the Employees' Provident Fund Authority under the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 is very limited. CSTC has also submitted whenever an employee like the petitioner retires, CSTC makes a requisition to the fund for release of the provident fund amount. Any delay in disbursement of the provident fund is, therefor, not attributable to it after the requisition is made. There may be several reasons for delay. It may so happen that the requisition is sent by CSTC much after the retirement of the employee. It can also happen that the requisition is made in time, but the trust does not release the money in time. Whatever may be the reasons for delay, the ultimate result is that the employee is deprived of the benefit of the money for the period when it fell due till it was actually paid. The money deducted from the petitioner along with the employee's contribution had been deposited with the trust's fund, which again is invested. Thus at the end of the day, if the amount is not paid in time to the employee, that amount remains invested in the funds and accrues interest.

In the instant case, initially the said Trust was not a party to the writ proceeding, but has been subsequently added.

On behalf of the said Trust, it is submitted that immediately on receiving the requisition from CSTC, the said Trust had taken steps for release of the money which is invested with United Bank of India (in short UBI) now known as Punjab National Bank (in short PNB) in a special scheme maintained at the Old Court House Street Branch of the said bank. The withdrawal of money, according to the said Trust, requires the permission of the Employees' Provident Fund Authority. The permission was received late and the bank released the money also at a belated stage, which caused delay for which the trust is not responsible.

Be that as it may, the petitioner is not liable for the delay but at the end of the day, lost the benefit of such money for the period it was not paid.

On the other hand, the delay in releasing the money from the amount lying invested has earned interest for the period for which it was not paid. The interest cannot be retained either by the said Trust or by CSTC or by the bank wherein the same is invested. The interest has to be passed on to the petitioner who has been deprived of the benefit. The provident fund amount earns interest at a particular rate as settled by the Government of India from time to time. The money is invested only in this scheme which can give such interest.

The respondents are, therefor, directed to pay interest to the petitioner on the prevailing rate of interest in respect of a provident fund amount applicable to the period of delay by calculating the same on the unpaid principal for the period between 1st February, 2021 till actual payment of such money. The entire computation has to be made within a period of two weeks from date and made over to the petitioner by the respondents. The disbursement of such amount shall be made within a period of four weeks from date, failing which further interest will become payable at the prevailing rate for the period of delay beyond four weeks from date.

Nothing further remains to be adjudicated in this writ petition, since other issues have already been resolved. The writ petition is accordingly disposed of without any order as to costs.

Parties are directed to act on the basis of a server copy of this order without insisting upon production of a certified copy thereof.

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

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

(**Arindam Mukherjee, J.**)