

27.9.2022
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Ct No. 21
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W.P.A. 21396 of 2022
Subhas Chandra Kar
vs
North Bengal State Transport Corporation & Ors.

Mr. S. Ghosh
Mr. Subrata Das
Mr. A. Amin
.....for the petitioner.

Mr. Amal Kr. Sen
Mr. Sabyasachi Mondal
...for the NBSTC.

Affidavit of service filed by the petitioner is taken on record.

Leave as prayed for by the learned Counsel appearing on behalf of the petitioner for correcting the cause title of the writ petition is hereby granted.

In this writ petition the petitioner prays for release of his gratuity dues to the tune of Rs. 78,524/- along with interest. The petitioner's case is that he had that upon receiving no objection from his original employer/ North Bengal State Transport Corporation(NBSTC), Cooch Behar. He joined his job with the Siliguri Government Polytechnic. Upon submitting his resignation with the NBSTC, the gratuity amount of the writ petitioner was calculated by the Deputy Managing Director, NBSTC and communicated vide establishment order No. 524 dated September 4, 2008. Thereafter, since the

petitioner himself requested the authorities concerned not to disburse his final gratuity since he applied for service continuation and pay protection, the establishment order No. 524 was cancelled by the authorities on January 3, 2009 vide memo No. 66/7.

Thereafter, the petitioner's prayer for pay protection and continuation of service was rejected by an office order dated February 10, 2015 by the Joint Secretary, Department of Education & Training, Polytechnic Branch, Government of West Bengal subsequently, the writ petitioner made a representation on September 28, 2021 to the Managing Director, NBSTC for disbursement of his gratuity dues. The demand for justice was made on January 7, 2022.

Mr. S. Ghosh, learned Counsel appearing for the writ petitioner submits that no reply has been given to the said representation dated September 28, 2021 and the demand for justice dated June 7, 2022.

Mr. Sen, learned Counsel appearing on behalf of the NBSTC being the respondent nos. 1 to 3 fairly submits that there is no dispute with regard to the gratuity dues payable to the writ petitioner. But the claim on account of interest is not maintainable. Since it is upon the instructions of the writ petitioner the gratuity dues were not disbursed to him in 2009. Furthermore, he did not make any prayer for

disbursement of his gratuity dues from 2015 till 2021.

Having considered the rival submissions of the parties and materials placed on record, this Court is of the view that the petitioner is entitled to the gratuity dues as calculated by the NBSTC by the establishment order dated September 4, 2008.

The petitioner himself wrote to the authorities for non-disbursement of his gratuity dues in November, 2008. Thereafter, the petitioner took no steps to claim his gratuity dues from February, 2015 when the prayer of pay protection was refused till 2021 when he made the representation.

In the circumstances aforesaid, the petitioner's prayer for interest cannot be entertained.

The respondent no. 2/the Managing Director of NBSTC is directed to disburse the gratuity dues as calculated by the office order dated September 4, 2008 within a period of eight weeks from date.

With the directions aforesaid, the writ petition being **WPA 21396 of 2022** is **disposed of**.

All parties to act on the server copies of this order duly downloaded from the official website of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all formalities.

(Lapita Banerji, J.)