13.04.2022
Item No.49
Court No.6.
S. De

M.A.T. 1697 of 2019
I.A. No. CAN 1 of 2019
(Old No. CAN/11854 of 2019)

Birbhum District Central Co-operative Bank Limited.
Vs
Paresh Kumar Mukherjee & Anr.

Mr. Partha Sarathi Bhattacharyya, Ld. Sr. Adv.
Mr. Saiket Chatterjee,
…for the appellant.
Mr. Pradip Kr. Roy,
Mr. Joydeep Roy,
Mr. Ankit Sureka,
Mr. Partha Sarathi Paul,
…for the State.
Mr. Kishore Mukherjee,
…for the respondent.

By consent of the parties, the appeal and the connected application are taken up together for hearing.

The writ petitioner was an employee of the appellant/Co-operative Bank. He retired from service on August 24, 2014. There was a delay in payment of his retiral benefits. The gratuity amount of Rs.8,65,509/- was paid to him on April 12, 2019. On July 17, 2019 the bank released the leave encashment amount of Rs.3,05,424/-. The bank also released the arrear salary of the writ petitioner for the period 01.04.2015 to 31.03.2016. The only outstanding payment was that of his salary for four months i.e. May 2014 to August 2014.

The writ petitioner claimed his outstanding salary for four months and also interest on delayed payment of gratuity and leave encashment. The learned Single Judge disposed of the writ petition by the order impugned. The operative portion of the order reads as follows :-

> *"Considering the submissions as advanced by the learned advocate for the parties and after perusing the letter dated 17th July, 2019, I direct the Birbhum District Central Co-operative Bank Ltd. to take steps for disbursement of the petitioner's arrear salary for four months i.e. from May 2014 to August 2014 with interest at the rate of 9% per annum from the date of retirement till the date of actual payment without any further delay but positively within four weeks from the date of communication of this order.*
>
> *I also direct the respondent-Bank to release interest @ 9% per annum towards the gratuity amount as well as leave encashment amount from the date of retirement till the date of actual payment within the stipulated time as indicated*

> *above and failing which petitioner is entitled to enjoy additional 2% interest."*

After admission of the appeal certain amounts have been paid by the bank to the writ petitioner as recorded in the order dated February 4, 2021 passed by a Co-ordinate Bench.

Mr. Bhattacharyya, learned senior advocate appearing for the appellant submits that between May 15, 2014 and September 30, 2015 the bank's business was stopped by the Reserve Bank of India. He has drawn our attention to a notice dated May 15, 2014 issued by the Reserve Bank in that regard. Learned advocate submits that there was no intentional delay or laches on the part of the appellant/bank in releasing the retiral benefits of the writ petitioner. Due to stoppage of business for a substantial period of time and other factors beyond the control of the bank, the bank was faced with severe financial crunch which resulted in the delay in disbursement of the writ petitioner's gratuity and leave encashment amounts.

We have noted the submission of learned senior counsel. However, the writ petitioner cannot be faulted for stoppage of the bank's business for the period May 15, 2014 till September 13, 2015. The Reserve Bank of India may have found irregularities in functioning of the bank which prompted the Reserve

Bank of India, which has supervisory power over all other banks in India, to temporarily suspend the business of the appellant/bank. For such reason, the writ petitioner cannot be penalized. Admittedly, there was substantial delay in payment of the writ petitioner's retiral benefits. It is elementary law that a retired person must be compensated by way of interest if there is delay in payment of his retiral benefits. The learned Judge did nothing wrong in directing the appellant/bank to pay interest on the delayed payment of the retiral benefits of the writ petitioner. There is no infirmity in the order under challenge. The appellant/bank has already made substantial payment to the writ petitioner following the order of the learned Single Judge. Whatever balance amount remains due and payable in terms of the order of the learned Single Judge shall be paid by the appellant/bank to the writ petitioner within a period of four weeks from date.

MAT 1697 of 2019 is, accordingly, disposed of along with the connected application being I.A. No. CAN 1 of 2019 (Old No. CAN 11854 of 2019).

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Krishna Rao, J.) **(Arijit Banerjee, J.)**