IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

WPA 34023 of 2013

Partha Pratim Guha Thakurata

Versus

Calcutta State Transport Corporation & Ors.

For the petitioner	:	Ms. Susmita Dey (Basu) .....Advocate
For the CSTC	:	Mr. Amal Kr. Sen Mr. Sabyasachi Mondal .....Advocates
Heard lastly on	:	12.07.2022
Judgment on	:	22.07.2022

Jay Sengupta, J.:

1. This is an application praying for a direction upon the respondents to release interest at the rate of 7% from 01.05.2013 to 13.07.2013 for the delayed payment of terminal benefits and to refund a sum of Rs. 30,614/- with interest and the extra rent realised in respect of use of office quarter.

2. Ms. Dey, learned counsel appearing on behalf of the petitioner submitted as follows. The petitioner was appointed as Assistant Engineer (Mech.) of the respondent no. 1 on 21.03.1983. On 31.08.2011 he superannuated at the age of 60 years as a Depo Manager of the Calcutta State Transport Corporation (CSTC for short). The petitioner had to file a writ petition for disbursement of his retiral benefits. By an order dated 20.03.2013 passed by this Court in WP No. 7960(W) of 2013, the respondents were directed to disburse the retirement benefits to the petitioner along with a 7% interest for the period of delay, within four months. On 31.07.2013 the respondent issued a clearance certificate to the petitioner indicating that there was nothing due from the petitioner. The retiral benefits were released to the petitioner on 01.08.2013. However, a total sum of Rs. 50,162/- was deducted from the same out of which Rs. 30,614/- was for alleged over payment and Rs. 19,548/- was due as rent for use of the official quarter. Reliance was placed on the decision of the Special Bench of the Hon'ble Apex Court in the State of Punjab and Others Versus Rafiq Masih (White Washer) (2014) 8 SCC 883. It was submitted that after superannuation of an employee, no sum could be deducted from his retiral dues. However, the petitioner was not pressing for the interest from 01.05.2013 to 31.07.2013 for delayed payment of terminal benefits as the issue was dealt with in the earlier writ petition. The petitioner was also not pressing for refund of the amount meant for quarter rent. However, the refund of the sum deducted for the alleged over payment may be directed along with a reasonable interest.

3. Mr. Sen, learned senior counsel appearing on behalf of the CSTC, opposed the prayer and more particularly, submitted that the amount that was due as rent for using official quarter was indeed not of such nature as could be covered by the decision in Rafiq Masih (supra).

4. Mr. Karan, learned counsel for the State also opposed the petitioner's prayer.

5. I heard the submissions of learned counsels appearing on behalf of the parties and perused writ petition.

6. As the other reliefs were not pressed, the only issue left to be deliberated upon is regarding refund of the amount deducted from the retiral benefits in lieu of purported over payment.

7. In Rafiq Masih (supra), it has been made abundantly clear that certain deductions cannot be made from retiral benefits of a former employee after superannuation. Here, the case of the purported over payment is quite akin to the ones illustrated in the said judgment. The ratio squarely applies in the instant case.

8. Therefore, the sum of money wrongly deducted from the retiral benefits of the petitioner after his retirement in lieu of purported overpayments should be refunded to the petitioner along with interest.

9. In view of the above discussions, I direct the respondents to refund the sum of Rs. 30,614/- to the petitioner with interest at the rate of 7% per annum to be paid with effect from the date on which the deduction was made at the time of release of the other retiral dues, within a period of one month from this date.

10. The writ petition is disposed of with the above directions.

11. Urgent photostat certified copies of this judgment may be delivered to the learned Advocates for the parties, if applied for, upon compliance of all formalities.

(Jay Sengupta, J.)

S.M