

ORDER SHEET

OD-7

WPO/1219/2021
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

TAPAS DUTTA
Versus
THE STATE OF WEST BENGAL AND ORS.

BEFORE:

The Hon'ble JUSTICE ARINDAM MUKHERJEE

Date : 7th February, 2022

Appearance:
Mr. Debdutta Basu, Adv.
For petitioner
Mr. Niladri Bhattacharjee, Adv.
Ms. Deblina Chattaraj, Adv.
For WBTC
Mr. Debashis Sarkar, Adv.
For State

The Court : The petitioner alleged that the principal sum on account of arrear difference of pay from April 1997 to March 2000 as per Revision of Pay and Allowance-1998 (ROPA-1998) was not paid to either the petitioner or to his deceased father. The petitioner had also claimed interest on the amount receivable which was not paid either to the petitioner or to his deceased father during his lifetime being an employee of Calcutta Tramways Company (1978) Limited (in short CTC) now known as West Bengal Transport Corporation Limited, (in short WBTC).

Pursuant to the direction given on 13th December, 2021, WBTC has filed a report in form of affidavit, which is taken on record. In the said report WBTC has categorically stated to have paid the principal sum to the petitioner's father. The petitioner is not in a position to disputes this factual situation. The report also provides for date and amount paid to the petitioner's father during his lifetime and on account of an interim relief of Rs.12,584/- to the petitioner.

It appears from the writ petition that the principal sum according to the petitioner has not been paid while in the report also on affidavit WBTC says to have been paid by the employer. In absence of any clinching material showing non-payment, the version of WBTC has to be accepted.

The petitioner, however, alleges that the amount shown by WBTC are payments much after the actual date on which the petitioner's father was supposed to be paid the said amount. The petitioner, therefore, claims interest on belated payment. There is no averment in the writ petition so as to the date of payment of the principal amount and the period of delay in paying the same. In absence of such averment, it is not possible to hold delay in making payment on the basis of the writ petition as it stands and the report in form of affidavit filed by the WBTC.

The writ petition is dismissed as withdrawn with liberty to file afresh on the issue of interest on delayed payment of the principal sum. The leave so granted should not be construed to be any right conferred on the petitioner so as to his claim for interest and will be judged on merit, if filed.

Since I have not called for any detailed affidavit apart from the report in form of affidavit, the allegations made in the writ petition are deemed to have not been admitted by the respondents.

(ARINDAM MUKHERJEE, J.)