

OD-17

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/2579/2022

HIRAK BANERJEE
VS
THE STATE OF WEST BENGAL AND ORS

BEFORE:

The Hon'ble JUSTICE LAPITA BANERJI

Date : 16th September, 2022.

Appearance:

Mr. Subhabrata Datta, Adv.

Mr. Debashis Sarkar, Adv.

Mr. Paritosh Sinha, Adv.

...for the State

Ms. Deblina Chattaraj, Adv.

Mr. Aditya Chaturvedi, Adv.

Ms. A. Dutta, Adv.

...for the respondent corporation WBTC Ltd.

The Court:- Affidavit of service filed in Court today be retained with the records.

In this writ application, the writ petitioner has prayed for disbursement of interest at the rate of 12 per cent per annum from January 1, 2017 (from the date of his retirement) to March 12, 2021 (the date of actual payment) for delayed payment of differential amount of gratuity pursuant to the introduction of ROPA 2019.

Mr. Basu, learned Counsel appearing on behalf of the writ petitioner submits that the said issue has been decided by orders passed by Co-ordinate Benches of this Hon'ble Court on March 12, 2021 in WPO No. 46

of 2021 (**Basudeb Tiwari vs. State of West Bengal & Ors.**) and also in WPO No. 2279 of 2022 (**Swapna Kumar Das vs. State of West Bengal & Ors.**).

Mr. Basu submits that interest on the differential gratuity is also payable in the instant case.

Ms. Chattaraj, learned Counsel appearing on behalf of the respondent Corporation submits that the ROPA was promulgated by the memorandum dated September 25, 2019 and subsequent clarifications were made on May 9, 2022.

She submits that the date from which interest should be calculated would be January 22, 2020 when the office memorandum of the Transport Department came into force incorporating the amendments of ROPA 2019.

Having considered the rival submissions of the parties and the materials placed on record, this Court is of the view that interest at the rate of 6 per cent should be paid to the writ petitioner from September 25, 2019 when the West Bengal Services (Revision of Pay and Allowance) Rules, 2019 was sought to be promulgated in the State of West Bengal by the finance department since an employee cannot be made to suffer because the Employer chooses to incorporate the recommendations of ROPA at a subsequent date till March 12, 2021.

Let such interest be paid within three months from the date of the order. Failure to make payment of interest within three months from date, the rate of interest will stand increased to 10 per cent per annum being the rate payable at present under the Payment of Gratuity Act, 1972 for delay in disbursement of gratuity.

Since affidavits are not called for, the allegations as made in the writ petition are deemed not to have been admitted by the parties.

With the aforesaid directions, the writ petition in **WPO No. 2579 of 2022** is **disposed of**.

All parties are to act on a server copy of downloaded from the official website of this Hon'ble Court.

Urgent certified website copies of this order, if applied for, be made available to the parties subject to compliance with all requisite formalities.

(LAPITA BANERJI, J.)