

OD-48

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

WPO/3164/2022

SWAPAN KUMAR DEY
VS
THE STATE OF WEST BENGAL AND ORS

BEFORE:

The Hon'ble JUSTICE LAPITA BANERJI

Date: 16th DECEMBER, 2022.

Appearance:
Mr. Niladri Bhattacharjee, Adv.
Ms. Deblina Chattaraj, Adv.
Ms. Angana Dutta, Adv.
For the Respondent Corporation

Mr. Santanu Kumar Mitra, Sr. Adv.
Mr. Subhabrata Das, Adv.
For the State

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

The writ petitioner was a permanent employee of the West Bengal Transport Corporation Limited (WBTCL) formerly known as the Calcutta Tramways Co. (1978) Limited. The writ petitioner retired from his service with effect from July 31, 2019.

The writ petitioner prays for interest on delayed payment of his retiral benefits aggregating Rs. 32,75,650/- from August 1, 2019 (being

the date succeeding his date of retirement) to December 3, 2019 (the date on which is retiral benefits have actually been paid).

Furthermore, interest of 10 per cent per annum is claimed on the delayed payment for the differential amount of gratuity to the tune of Rs.1,24,128/- from September 25, 2019 to March 12, 2021 under the West Bengal Services (Revision of Pay and Allowance) Rules, 2019.

The issue of payment of interest on delayed payment of retiral benefits has been considered by the Hon'ble Supreme Court in two judgments reported in 2021 (11) SCC 543 (**State of Andhra Pradesh & Anr. Vs. Dinavahi Lakshmi Kameswari**) and also in 2022 (4) SCC 627 (**Dr. A. Selvaraj vs. CBM College & Ors.**). In **Selvaraj** (supra) it was held that the delay in payment of retiral benefits was due to no fault on the part of the petitioner. It was an obligation on the part of the employer to process the retiral benefits and pay the same within one month of the date of the petitioner's retirement. Since the payment was not made within one month, the interest was held to date back to the petitioner's date of retirement.

Following the aforesaid judgements of the Apex Court and also the judgment passed by Co-ordinate Bench of this Hon'ble Court in WPO No.2279 of 2022 (Swapan Kumar Das vs. The State of West Bengal), this Court holds that interest at the rate of 6 per cent per annum should be paid by the respondent company to the petitioner from August 1, 2019 to December 3, 2019 for late disbursement of post retiral benefits within

three months from date. In the event there is any default in payment of interest within the stipulated period, the rate of interest will stand increased to 10 per cent per annum being the rate payable at present under the Payment of Gratuities Act, 1972. Interest on delayed payment of arrears on the differential amount of gratuity should be also paid at the rate of 6 per cent per annum from September 25, 2019 to March 12, 2021 within 3 months and in the event of default the rate will stand increased to 10 per cent per annum.

Since affidavits have not been invited in the present writ petition, the allegations made in the writ petition are deemed not to have been admitted by the parties.

With the aforesaid directions, the writ petition, **being WPO No.3164 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.)

A Dey