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03.01.2023
d.p.

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 14595 of 2022

**Tapan Kumar Paul @ Tapan Paul
-versus
The State of West Bengal & Ors.**

**Mr. Chittaranjan Chakraborty,
Mr. Dip Jyoti Chakraborty,
Mr. Sumit Banerjee.
...For the Petitioner.**

**Mr. Alope Kumar Ghosh,
Mr. Arijit Dey.
...For KMC.**

**Ms. Chaitali Bhattacharya,
Ms. Sanjukta Samanta.
...For the State.**

The prayer of the petitioner for grant of interest on account of delayed payment of his retiral benefits has been rejected by the Assessor Collector (South), Kolkata Municipal Corporation.

The petitioner is aggrieved by the same.

The petitioner submits that he will be entitled to receive interest as the payment was made long after he retired.

The petitioner relies upon an order dated 6th August, 2018 passed in his favour in W.P. 24373 (W) of 2017 where the Court directed the KMC authorities to calculate and disburse the retirement benefits of the petitioner by treating him to be in service for the period from 3rd May, 2003 till 29th February, 2016.

The aforesaid order dated 6th August, 2018 stood affirmed by judgment dated 20th September, 2019 passed by the Hon'ble Division Bench in the appeal preferred by the respondent authorities being CAN 10279 of 2018 in MAT 1352 of 2018.

The Hon'ble Division Bench directed the respondents to release the financial benefits in terms of the order passed by the Learned Single Judge.

An application for contempt was filed by the petitioner for non-compliance of the order passed by the Learned Single Judge.

By order dated 14th February, 2020, the said contempt application being CPAN 605 of 2019 arising out of W.P. 24373 (W) of 2017 stood disposed of without passing any order for payment of interest on account of the delayed payment of the dues of the petitioner.

It has been submitted that presently regular pension is being paid to the petitioner and the details of payment have been mentioned in the communication made by the Assessor Collector (South) on 8th February, 2021.

The prayer for interest has been opposed by the learned advocate appearing for the Corporation.

According to the respondents, the petitioner will not be entitled to interest as the payment had been made in terms of the order passed by the Learned Single Judge.

It appears from the documents annexed to the writ petition that though the petitioner prayed for releasing his arrear pay, pension and other benefits along with interest, the Court did not pass any order for releasing the retirement benefits along with interest.

It appears from the submissions made on behalf of the parties that initial prayer for interest made by the petitioner has been disallowed by the Learned Court in the earlier writ petition filed by the petitioner.

The petitioner never preferred any appeal against the said order. On the contrary he accepted the payment made by the Corporation without raising any objection.

Accordingly, at this stage, the petitioner cannot be permitted to re-agitate his prayer for interest all over again.

The same will be barred by the principles of constructive *res judicata* and the prayer of the petitioner cannot be entertained by the Court.

In view of the above, no relief can be granted to the petitioner in the present writ petition.

The writ petition, accordingly, fails and is hereby dismissed.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)