

13.07.2023
Ct. No.7
S/L No.5
KS

W.P.A. 12155 of 2011
With
IA No. CAN 2 of 2019 (Old No. 3942 of 2019)

Mantu Chandra Mondal
-Vs.-
State of West Bengal & Ors.

Mr. Krishnendu Bera
Ms. Debolina Chakraborty
.....For the Petitioner
Mr. Sanjay Saha
.....For the respondent Nos.2 to 4

1. The petitioner, who was appointed as a Commercial Inspector under the West Bengal Essential Commodities Supply Corporation (hereinafter referred to as “the Corporation”) retired from service upon attaining the age of superannuation on 31st January, 2009.
2. The grievance of the petitioner is that the Corporation has wrongly withheld the amount of gratuity to the extent of Rs.1,00,000/-, for which the instant writ petition has been filed.
3. Learned advocate appearing for the petitioner submits that the Corporation took a decision to initiate a disciplinary proceeding after the retirement of the petitioner and the charge-sheet dated 20th January, 2011 was served upon him.

4. The learned advocate appearing for the petitioner submits that the West Bengal Essential Commodities Supply Corporation Limited Employees' Conduct Rules, 1976 (for short, "the Conduct Rules") do not empower the authorities to initiate disciplinary proceedings after an employee is allowed to retire on superannuation. He, therefore, submits that the disciplinary proceedings initiated by the authorities by issuance of a charge-sheet vide Memo dated 20th January, 2011 is liable to be set aside and quashed.
5. The learned advocate appearing for the Corporation, in his usual fairness, submits that at the relevant point of time when the petitioner retired, the Conduct Rules did not provide for initiation of a disciplinary proceeding after retirement of the employee.
6. He, however, submits that since this writ petition was pending, the amount of gratuity has not been released in favour of the petitioner.
7. Heard the learned advocates for the parties and perused the materials on record. After going through the Conduct Rules, this Court finds that the said Rules do not empower and/or authorize initiation of a disciplinary proceeding after an employee is allowed to retire from service upon attaining the age of superannuation. In the absence of any provision empowering the authorities to initiate the

disciplinary proceedings after retirement, this Court is of the considered view that the disciplinary proceedings initiated admittedly after the retirement of the petitioner on superannuation was without jurisdiction and for such reason, the same is liable to be set aside and quashed.

8. Accordingly, the disciplinary proceedings initiated vide Memo dated 20th January, 2011 and all steps taken thereafter pursuant to the said Memo are accordingly set aside and quashed.
9. The appropriate authority of the 2nd respondent is directed to release the gratuity amount of Rs.1,00,000/- along with interests @ 7% per annum to the petitioner calculated from the date of retirement of the petitioner till the date of such payment as expeditiously as possible, but positively on or before September 30, 2023.
10. With this above direction, the writ petition stands disposed of.
11. Pending applications, if any, are consequently disposed of.
12. There shall be no order as to costs.
13. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(Hiranmay Bhattacharyya, J.)