

Item No.11

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

01.08.2023
Ct-24

WPA 15039 of 2023

Tapas Dey Sarkar

v.

The State of West Bengal & Ors.

**Ms. Senjuti Sengupta,
Mr. Rananeesh Guha Thakurta,
Ms. Dipa Roy.
...For the Petitioner.**

**Mr. Dipak Kumar Mukherjee,
Ms. Shreyasi Bhaduri.
...For the Bhatpara Municipality.**

Affidavit-of-service filed in Court today is taken on record.

The petitioner is a retired employee of the Bhatpara Municipality.

The petitioner prays for disbursal of the gratuity amount as mentioned in the Pension Payment Order issued on **28th November, 2022**. The dues of the petitioner on account of unpaid gratuity amount is Rs.**5,24,219/**. The petitioner submits that pension has also not been disbursed since April 2023.

Learned advocate representing the Municipality submits, upon instruction that, on account of paucity of fund, the payment could not be made. It has been submitted that huge sum of money to the Municipality is due and payable by the State.

Submission of the Municipality is that till the dues of the Municipality is cleared by the State, the dues of the employees cannot be disbursed.

Learned advocate for the State respondents does not have any instruction in the matter.

Non-availability or paucity of funds can never be the ground for not disbursing the gratuity amount mentioned in the PPO.

In the instant case PPO was issued long back and till date the petitioner has not been paid the dues. Such stand of the respondents cannot be accepted under any circumstances.

The authority is duty bound to disburse the dues of the petitioner along with interest.

The respondents are directed to immediately take steps for clearing the dues of the petitioner at the earliest but positively by 31st October, 2023 along with interest at the rate of 7% per annum payable on and from the due date till the date of actual payment.

In the event the principal along with the interest is not disbursed within the aforesaid time limit, then the petitioner shall be entitled to receive the principal amount along with additional 3% interest, that is, $7\%+3\%=10\%$ interest payable on and from the due date till the date of actual payment.

It is made clear that the rate of interest is fixed keeping in mind the submission of the learned advocate representing the Municipality that there is acute shortage of funds. The statutory interest submitted by

the petitioner, that is, 10% is accordingly not being granted at the initial stage, but if the payment is not made within the stipulated time, then on account of additional interest the respondents will be liable to pay interest at the rate of 10% as mentioned above.

It will be open for the Municipality to seek financial assistance from the State respondents in the event the Municipality is not in a position to clear the entire dues of the petitioner.

The writ petition stands disposed of.

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

Sh.

(Amrita Sinha, J.)