Item No. 4

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

19.10.2023
Ct-24

WPA 15056 of 2023
Gobinda Lal Mitra
v.
The State of West Bengal & Ors.

Mr. Rananeesh Guha Thakurta
Ms. Senjuti Sengupta
Ms. Dipa Roy
... for the petitioner.

Mr. Dipak Kumar Mukherjee
Mr. Rajib Mukherjee
Ms. Shreyasi Bhaduri
... for the Municipality.

Mr. Jayanta Samanta
Mr. Manas Kumar Sadhu
... for the State.

The petitioner is a retired employee of Bhatpara Municipality. He retired from service on attaining his normal age of superannuation on February 28, 2015. PPO was issued in favour of the petitioner on February 20, 2015.

The grievance of the petitioner is that the gratuity amount as mentioned in the PPO has not been disbursed. The pension has also been withheld from 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.

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 within 4 months 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.

Before parting the Court takes note of the direction passed by the Hon'ble Division Bench of this Court on October 18, 2023 in MAT 1590 of 2023 (The State of West Bengal & Anr. –vs- Sujit Biswas & Ors.) wherein the Court held that although the State may not be legally obliged to pay gratuity dues of a retired employee of a Municipality, since payment of gratuity is a welfare measure, the State should step and try to ensure, in whatever manner it deems fit, that the employee receives the admissible dues.

The Municipality is directed to immediately resume payment of pension and clear the arrear pension due in favour of the petitioner.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

Sh **(Amrita Sinha, J.)**