

27-02-2023
Item No.36
Subrata
Bhattacharyya

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA No.16053 of 2018
Sibdas Karmakar
-vs-
State of West Bengal & Ors.

Mr. Samiran Mondal
Mr. Nitish Samanta ...for the petitioner

Mr. Soumik Ganguli
Ms. Chandana Chakraborty ...for the college

The writ petitioner is aggrieved by the fact that he was granted leave encashment benefit for 229 days only, instead of he entitled 300 days.

He was initially appointed as lecturer at Achhuram Memorial College, Purulia. His service was approved in the year 1977. He served in the said college till 1988 and thereafter he joined Ramananda College at Bankura in the middle of 1998. The petitioner retired from the said college on November 30, 2010. Approximately about eight years after his retirement, he approached this court asserting that his leave encashment benefits were not properly calculated. He was only granted the benefit of 229 days leave encashment, despite being entitled to 300 days.

Mr Soumik Ganguly, learned advocate representing the Ramanda College, submits that since the petitioner could not provide any particulars relating to his past services for the calculation of his leave encashment benefit, the figure of 229 was arrived at after considering the period of service rendered by the petitioner at Ramananda College only.

The fact remains that the petitioner has approached this court about eight years after his retirement. The learned advocate for the petitioner sought to justify such a belated approach on the ground that the petitioner sought the benefit of a memorandum dated December 12, 2013 which came into existence after his retirement. It is apparent, even after the issuance of the said memo in 2013 and despite the passage of five years, the petitioner remained silent regarding his claim.

The petitioner chose not to implead Achharam Memorial College in this writ petition where he served first. In absence of the said college it cannot be decided whether the petitioner was entitled to any further leave encashment benefit. Furthermore, even after filing this writ petition, an additional four more years have passed.

At this juncture, after a lapse of about twelve years from his retirement, I am not inclined to add the said college and to call for an affidavit to ascertain whether the petitioner is entitled to additional seventy-one days of leave encashment benefit particularly when the petitioner had received his all other retirement benefits, including gratuity and provident fund soon after his retirement.

To approach this court by filing a writ petition, a litigant must demonstrate due diligence to assert his legal right. This writ petition is not only grossly belated but defective as well.

With the above, WPA No.16053 of 2018 stands disposed of. No order as to costs.

Certified copy of this order, if applied for, shall be made available to the parties.

[Kausik Chanda, J.]

