

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Raja Basu Chowdhury

WPA 14772 of 2016

Tushar Kumar Dasgupta
Vs.
The State of West Bengal & Ors.

For the petitioner	:	Mr. Debdutta Basu
For the respondent/ Corporation.	:	Ms. Deblina Chattaraj
Heard on	:	04.04.2023
Judgment on	:	04.04.2023

Raja Basu Chowdhury, J:

1. The present writ application has been filed, inter alia, praying for a direction upon the respondents to pay and disburse interest at the rate of 12 per cent on account of delayed payment of the retiral dues of the writ petitioner. The writ petitioner was a permanent employee of the respondent no.2. After serving the respondent no.2 for 30 years, he was superannuated with effect from 31st May, 2014.
2. Mr. Basu, learned advocate representing the writ petitioner while drawing attention of this Court to a notice dated 12th

August, 2014 submits that the petitioner was called upon to collect his retiral dues by the aforesaid notice. It is pursuant to the aforesaid notice that actual payments were disbursed in favour of the petitioner only on 6th July, 2015. The payments, inter alia, included provident fund and gratuity payable to the writ petitioner. It is submitted that the respondents were obliged to make payment of the retiral dues within 30 days from the date of retirement. The respondents, having not done so, are bound to compensate the writ petitioner.

3. He says that the issue with regard to payment of interest on account of delayed payment of retiral dues is no longer *res integra*. In support of the aforesaid contention, Mr. Basu has placed reliance on the following judgments delivered by the Hon'ble Supreme Court.

A. **D.D. Tewari (Dead) Thr Lrs. vs. Uttar Haryana Bijli Vitran Nigam Ltd. & Ors. (2014) 8 SCC 894.**

B. **Dr. A. Selvaraj Vs. CBM College & Ors. 2022 (4) SCC 627.**

4. Mr. Basu submits that this Hon'ble Court from time to time has also directed the respondent no.2 to make payment of interest on account of delayed payment of retiral benefits, in respect of similarly placed persons. He submits that in the

instant case, admittedly, the retiral dues had not been paid within a period of 30 days when the same fell due and as such, the writ petitioner is entitled to interest on delayed payment of retiral dues.

5. *Per contra*, Ms. Chattaraj, learned advocate representing the respondent no.2, submits that the petitioner is covered by the scheme framed pursuant to directions passed by this Hon'ble Court. By drawing attention of this Court to an order dated 30th June, 2015, it is submitted that this Hon'ble Court having identified the financial difficulties faced by the respondent no.2 consequent upon implementation of ROPA-2009, had directed the Principal Secretary, Finance Department as also the Principal Secretary, Transport Department to formulate a scheme for payment of the retiral dues of ex-employees of the respondent no.2 who were similarly placed as that of the writ petitioner. Such direction had been issued, taking into consideration the mounting loss suffered by the respondent no.2 and the failure on the part of the respondent no.2 to meet its financial commitments.

6. Drawing attention of this Court to a scheme, for the retired employees of the State Transport undertakings, she submits that the aforesaid scheme had been formulated (hereinafter referred to as the scheme) pursuant to the aforesaid directions

passed by this Hon'ble Court. It is submitted that the scheme takes into consideration not only the employees who had retired from services prior to 1st April, 2015 but also takes into consideration all such employees who had retired from services on and from 1st April, 2015 and upto June, 2016.

7. Ms. Chattaraj, learned advocate, by drawing attention of this Court to paragraph 6.2 of the aforesaid scheme, submits that provision for payment of interest has been made in respect of old retirees, that is employees who have retired prior to 1st April, 2015. The writ petitioner having retired from service on 31st May, 2014 was obviously considered by such scheme. The petitioner is at best entitled to interest as per the scheme.
8. Considering the submissions made by the learned advocates appearing for the respective parties and the materials on record, I find that the petitioner having retired prior to 1st April, 2015 is covered by the scheme formulated pursuant to the direction passed by this Court. As would appear from the said scheme, the petitioner is an old retiree. In terms of paragraph 6.2 of the said scheme the petitioner would be entitled to interest at the rate of 5 per cent per annum for delayed payment of gratuity component. However, the respondents despite claiming that the petitioner is covered under the scheme did not act in terms of the scheme and did

not make payment of interest on delayed payment of retiral dues, despite the petitioner being entitled to the same.

9. The petitioner's entitlement of interest on delayed payment of the retiral dues cannot be disputed, as the right to receive interest on account of delayed payment of retiral dues is no longer *res integra*. The Hon'ble Supreme Court in the case of D.D. Tewari (D) Thr. LRS., (supra) has already considered the issue with regard to payment of interest on delayed payment of retiral benefits. Financial inability on the part of the respondent no.2, cannot disentitle the petitioner to receive the minimum compensation in the form of interest.

10. As noticed above the respondents did not adhere to their own scheme, as such, the petitioner's entitlement to interest on delayed payment of retiral dues cannot be restricted to the scheme, especially when the respondents themselves did not adhere to the same. In my view, justice would be sub-served if the respondent no.2 is directed to pay interest at the rate of 7(seven) per cent per annum, on the retiral dues payable to the petitioner, from the date when the same became due upto the date of the actual payment.

11. The respondent no 2 is thus, directed to compute the quantum of interest and to disburse the same in favour of the petitioner within a period of three months from date.

12. With the aforesaid direction, the writ petition stands disposed of.
13. There shall be no order as to costs.
14. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of necessary formalities.

(Raja Basu Chowdhury, J.)