

08.09.2023
sayandeep
Sl. No. 02
Ct. No. 12

FMA 3931 of 2014
with
CAN 1 of 2014(Old CAN 9004 of 2014)(not in file)

Bipin Behari Bera
-Versus-
State of WestBengal & Ors.

Mr. Srijan Nayak
Mrs. Rituparna Maitra
Mr. A. Mitra

.....for the appellant

The appellant retired from service on 31st January, 2009 on attaining the age of superannuation. According to the appellant, the respondent did not pay the retiral benefits immediately on retirement but paid only on 04.09.2013. The respondent did not accede the request of the appellant for interest for delayed payment. The appellant filed writ petition No. 12463 (w) of 2014 seeking 18% interest from the date of retirement till 4th September, 2013 when the terminal benefits were paid by the respondent. The learned Judge dismissed the writ petition holding that appellant approaches the Court only in the year 2014 and he slept over his right from the date of retirement till payment on 04.09.2013.

Against the said order, the present appeal is filed.

When the matter was taken up for hearing on 29.08.2023, there was no representation for State. The counsel appearing for the appellant submitted that due

to change of panel of advocate, she may be permitted to serve the notice once again on the counsel who is appearing further on behalf of the State and she was permitted to serve the notice under present counsel on 31st August, 2023. Learned counsel appearing for the appellant produced affidavit-of-service and submitted that notice along with all the copies was served on the Government Pleader and the office of the Government Pleader also issued a receipt for receiving the notice. In spite of the same, there was no representation for the State that day also. To give one more opportunity, the matter was posted today. Today also there was no representation for the State.

Heard learned counsel for the appellant and perused the entire materials on records.

From the materials on record, it is seen that there is no dispute that appellant retired on 31st January, 2009 but his retirement benefits were paid by the respondents only on 04.09.2013. An employee who retires from service after rendering his service he is entitled to payment of his retiral benefits immediately on his retirement. The retiral benefits payable to an employee is not a charity or bounty but it is in recognition of his service rendered. In the present case, the appellant retired on 31st January, 2009. The retirement benefits was paid only on 04.09.2013 and there is a delay of 55 months in payment of retirement benefits. Due to the delay in payment of retirement

benefits definitely the appellant would have suffered financial insecurity as well as mental agony.

In view of the same, the appellant is entitled to interest which will be 9% from 31st January, 2009 when he retired or 01.02.2009 the next day of his retirement till 03.09.2013.

For the above reasons, order of the learned Single Judge is set aside.

The respondents are directed to calculate the interest payable as the ordered by this Court at 9% and pay the same within four weeks from date.

With the above directions, the appeal is allowed.

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

(V.M. Velumani, J.)

(Rai Chattopadhyay, J.)