

75.
20.4.2023
S.D.

W.P.A. 22139 of 2022

Asit Kumar Dolui
Vs.
The State of West Bengal & Ors.

Mr. Gobinda Das Mitra
... For the Petitioner

Ms. Angana Datta
Ms. Sristi Pal
..for the Corporation

The petitioner is a retired employee of the West Bengal Transport Corporation Limited (WBTCL) formerly known as Calcutta Tramways Company (1978) Ltd. The petitioner retired from his service on August 31, 2018. The benefits of Revision of Pay and Allowances (ROPA), 2019 was introduced by an Office Memorandum dated January 22, 2020 issued by the OSD & Ex-Officio Additional Secretary, Transport Department, Government of West Bengal. The benefits of ROPA, 2019 were to be given to the employees with effect from January 1, 2016.

Since the petitioner has already retired in 2018 before the Office Memorandum dated January 22, 2020 came into effect, the petitioner will only be entitled to notional benefits of the same since January 1, 2016.

Ms. Datta, learned counsel appearing on behalf of the Corporation submits that as per the calculation of the Corporation, a sum of Rs.2,69,873/- is due and payable to the petitioner as difference of gratuity.

The arrears of the admissible dues payable to the petitioner be paid by three months from date along with interest thereon @ 6% p.a. from September 1, 2018 being the date subsequent to the date of retirement till the date on which they had in fact released to the petitioner.

The petitioner is entitled to claim such interest. Due to the assurance made by the employer/State, the claim of the petitioner has attained a statutory colour. This Court is of the view that the laws of limitation are not applicable in exercise of jurisdiction under Article 226 of the Constitution of India relying on a judgment passed by the Apex Court reported in **2022 Live Law (SC) 785 (State of Rajasthan & Ors. Vs. O.P. Gupta)**. It has also been held in the said decision that the Court cannot be oblivious to the difficulties of a retired employee in approaching the Court, which could include financial constraints.

With the directions aforesaid, **W.P.A. 22139 of 2022** is **disposed of**.

All parties shall act on the server copy of this order duly downloaded from the **website** of this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all the formalities.

(Lapita Banerji, J.)