

11.10.2023
DL-188
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 24099 of 2023

Prabir Kumar Goswami
Vs.
The State of West Bengal & Ors.

Mr. Srinjay Sengupta,
Mr. Saurav Roy,
Mr. Narattam Acharyya,
Mr. Ankush Ghosh

....for the petitioner.

Ms. Deblina Chattaraj,
Ms. Angana Dutta

.....for WBTCCL.

Mr. Manas Kumar Sadhu

....for the State.

Affidavit of service filed in Court today is retained with the records.

The writ petitioner was a permanent employee of the West Bengal Transport Corporation Limited (in short 'the WBTCCL') previously known as the Calcutta Tramways Company (1978) Limited. The writ petitioner retired from his service on January 31, 2015.

The petitioner prays for interest on the delayed payment of the retiral dues. The provident fund dues aggregating Rs.4,66,709/- was paid on June 8, 2015. Gratuity and leave encashment benefits to the tune of Rs.5,96,684/- was paid on September 3, 2015.

Ms. Chattaraj, learned counsel appears on behalf of the CSTC.

The writ petitioner is entitled to interest from February 1, 2015 (the date subsequent to the date of retirement) till June 8, 2015 of Rs.4,66,709/- being the provident fund amount and from February 1, 2015 till September 3, 2015 on the sum of Rs.5,96,684/- being the gratuity and leave encashment amount.

The respondent authority/CSTC is directed to pay the aforesaid payment within three months from date. In the event, the said amount is not disbursed within the stipulated period, the rate of interest will stand enhanced to 10% per annum being the statutory rate under the payment of Gratuity Act, 1972.

The petitioner is entitled to claim such interest. A beneficial reference may be made to an order/judgment passed by the Hon'ble Division Bench in F.M.A. 3942 of 2016 (**Amarnath Tiwari & Ors. vs. State of West Bengal & Ors.**) 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, the writ petition, being **WPA 24099 of 2023**, is **disposed of**.

Since no affidavits have been called for in the writ petition, the allegations contained therein be deemed not to have been admitted by the respondents.

Needless to mention, in case the petitioner has occupied the quarter granted by the employer after his retirement the occupation charges for the said quarter will be deducted from the retiral benefits that the petitioner is entitled to as per the extant rules and policies of the employer/CSTC.

All parties are to act on a server copy of this order downloaded from the official website of this Hon'ble Court.

Urgent certified website copies of this order, if applied for, be made available to the parties subject to compliance with all requisite formalities.

(Lapita Banerji, J.)