

25.09.2023
Item No.2
Court No.550
Saswata

W.P.A. 25827 of 2015
CAN 2 of 2023
Amal Kumar Saha and Ors.
-vs-
The State of West Bengal & Ors.

Mr. Golam Mohammad

...For the petitioners

Ms. Priyanka Kundu

Ms. Angana Dutta

...For the respondent Corporation – WBTC

In re : CAN 2 of 2023

1. Affidavit of service filed in Court today is retained with the record.
2. This is an application for recall of the order dated 20th June, 2023.
3. Pursuant to the order dated 8th September 2023, the Department, by an office report dated 19th September 2023 has confirmed the factum of Mr. Golam Mohammad filing the vakalatnama after obtaining change from the erstwhile advocate-on-record for the petitioners. Mr. Mohammad, learned advocate, however, confirms that he only represents the petitioner nos. 1 to 3, 5 to 13, 16, 17, 19 to 21, 25 & 26.
4. Heard the learned advocates appearing for the respective parties and considered the materials on record.
5. I find that the petitioners have been able to make out sufficient cause for their non-appearance on 20th June 2023. Although, Mr. Mohammad, learned advocate represents the petitioners indicated above, I find that all the petitioners stand on the same footing.

6. In view thereof, the order dated 20th June 2023 is recalled and the writ application being WPA 25827 of 2015 is restored to its original file and number.
7. CAN 2 of 2023 is accordingly disposed of.

WPA 25827 of 2015

1. The present writ application has been filed, inter alia, praying for grant of interest on account of delayed payment of arrears, in terms of ROPA Regulations 1998. The petitioners are all the employees of Calcutta Tramways Company (1978) Limited (in short CTC), presently known as West Bengal Transport Corporation Ltd.
2. The aforesaid claim of the petitioners arise out and in connection with a decision taken by the Government of West Bengal, which was implemented by the erstwhile CTC limited, by issuing a memorandum dated 21st July 2000, to implement the provisions of ROPA Regulations 1998 to all category of employees, supervisory and officers of CTC Limited, as per the schedule provided in the said memorandum. It is the contention of the petitioners that from time to time, they have made diverse representations, inter alia, claiming interest on delayed payment of arrears, which became payable on the implementation of ROPA Regulations 1998 consequent upon issuance of memorandum dated 21st July 2000, which fell due from April 1st 1997 to 31st March 2000.
3. It would be relevant to indicate that in paragraph 4 of the aforesaid memorandum, the respondents had

categorically and in no uncertain terms, recorded as follows:-

“4. While fixation in the Revised Scale of Pay may be made from 1.1.96 depending on the date of option of the employee, actual payment on the basis of fixation in the Revised Scale of Pay will, however, be made with effect from 1.4.2000. The arrears for the period from 1.4.97 to 31.3.2000 will be paid in five annual instalments, the first instalment being payable not before 1.11.2002, along with the interest to be calculated from 1.4.2000 at the same rate as admissible in respect accumulation in the General Provident Fund Account.”

4. In light of the aforesaid decision, I am of the view that the claim of interest of the petitioners cannot be said to be unjustified. I find that Mr. Mohammad, learned advocate representing the petitioner nos. 1 to 3, 5 to 13, 16, 17, 19 to 21, 25 & 26 submits that the aforesaid petitioners are, otherwise, entitled to interest as payments have been made in favour of the petitioners, belatedly. In response to the query of this Court, he submits, all the petitioners stand on the same footing although, he represents some of them.
5. Per contra, Ms. Kundu, learned advocate appearing for the respondent nos. 3 to 5, on instructions, submits that insofar as the petitioner nos. 4, 14, 15 and 28 are concerned, interest has already been disbursed in their favour. She submits that insofar as the other petitioners are concerned, arrears have already been cleared long back.
6. Heard the learned advocates appearing for the respective parties and considered the materials on record.

7. I am of the view that an employee, immediately on his retirement becomes entitled to his/her retiral benefits. In order to provide retired employees with the retiral benefits, the processing of their papers starts months before their retirement. All these petitioners have now retired. Although, arrears that fell due on the implementation of ROPA Regulations 1998, may have been disbursed, yet the interest component had not been disbursed. The right of the petitioners to claim interest on delayed payments of arrears that fell due, had been recognized by a Division Bench of this Court in the case of **Amarnath Tewari -vs- State of West Bengal & Ors.** in **FMA 3942 of 2016.**

8. The Division Bench of this Court, while hearing out an identical case and by taking note of the self-same memorandum was, *inter alia*, pleased to observe as follows:-

“ Therefore, in the light of the aforesaid decision which appears to be a policy decision to give some succor to the employees, who have lost their employment or whose salaries though revised by a scheme was not implemented and revised salary was not paid. Thus, entitlement for payment of interest has a statutory colour in the sense it is pursuant to a policy decision taken by the Government implementable by the respondent tramways company, who have no other choice and cannot wriggle out their liability.”

9. Having regard to the aforesaid and taking note of the fact that all the petitioners stand on the same footing, I am of the view that all the petitioners are entitled to interest for the period in question which has been clearly identified in paragraph 4 of the memorandum dated 21st July 2000. As a result, I direct the respondent

nos. 3 to 5 to re-compute the arrears payable to the petitioners in terms of the directions contained hereinabove, by computing interest at the rate of 7 per cent per annum and after giving credit to the amount, already paid, if any, and to disburse the same in favour of the eligible petitioners within a period of 6 weeks from the of communication of this order.

10. In default of payment of the aforesaid interest within the period as specified hereinabove, the respondents will be obliged to pay interest at the rate of 10 per cent.

11. The report dated 20th September 2023 filed by the West Bengal Transport Corporation Limited (Formerly The Calcutta Tramways Company (1978) Ltd.) is retained with the record.

12. With the above observations and directions, the writ application being WPA 25827 of 2015 is ***disposed of***.

13. Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis upon completion of requisite formalities.

(Raja Basu Chowdhury, J.)