

21 03.01.2023
Sc Ct. no.22

WPA 28515 OF 2022

Smarajit Kumar Biswas

Vs.

The State of West Bengal & Ors.

Mr. Lalratan Mandal

....For the Petitioner

Mr. Biswajit De

Ms. Rajlakshmi Ghatak.

....For the State

Mr. Suman Basu

....For the Respondent
No. 3

Affidavit-of-service, filed in Court, is taken on record.

The petitioner was an employee and served as **Lecturer in S. R. Fatipuria College, Beldanga, Murshidabad.** The petitioner retired in 2002. At the time of retirement a sum of Rs.56,499/- was deducted from the retiral benefits payable to the petitioner on account of an alleged shortfall in **Contributory Provident Fund** account as would be evident from **Annexure-P4** to the writ petition. The said document was dated November 5, 2003. It appears from the averment made in the writ petition and from the submissions made on behalf of the appearing parties that the petitioner did not pursue his claim for more than long 19 years.

Considering the above, this Court is of the firm view that had it been considered as a simpliciter money claim then also the period of limitation for exercising any right

arising out of such claim would have been barred after three years from accrual of one individual's right to agitate the same. In the instant case, the right of the petitioner, if any, have accrued immediately upon his retirement on November 5, 2002, **Annexures-P4 and P5** to the writ petition.

It is true that there is no period of limitation prescribed to apply under the high prerogative writ jurisdiction of this Court under Article 226 of the Constitution of India. Similarly, it is equally true that delay defeats equity and a 226 Court being a Court of equity should not indulge on a claim which is sought to be enforced after an inordinate delay.

For the reasons mentioned above, this court is of the view that this writ petition is devoid of any merit and should not be entertained by this Court in its high prerogative equitable writ jurisdiction.

Resultantly, this writ petition, **WPA 28515 of 2022** stands dismissed without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)