

MAT 2093 of 2022
With
CAN 1 of 2023
The State of West Bengal & Ors.
Vs.
Habibur Rahaman Halder & Ors.

Mr. Sk. Md. Galib
Ms. Jyotsna Roy Mukherjee
... .. for the appellants
Mr. Sridhar Chandra Bagari
... .. for the respondents

This intra-court appeal is at the instance of the State challenging the order of the learned Single Judge dated 21st November, 2022 disposing of the WPA 19934 of 2022 with a direction to the appellants to pay interest @ 8 % per annum on the delayed payment of ex gratia amount and also to pay costs of ₹20,000/- to each of the 40 petitioners.

The respondents/writ petitioners had approached the Writ Court with the plea that they had served as a member of the National Volunteer Force and on reaching the age of 60 years they were demobilized. Further plea was raised that on the retirement they were entitled to receive ex gratia amount of ₹50,000/- but the payment was made with delay, therefore, in the writ petition a prayer was made for granting interest on the delayed payment.

Submission of learned counsel for the appellants is that in different petitions learned Single Judges had passed different orders granting interest on delayed payment of ex gratia amount @ 6%, 8% and 9%. Therefore it was not clear to the State authorities at what

rate the interest was to be granted. He has further submitted that the learned Single Judge has committed an error in drawing similarity with the order passed in another matter being WP 2396(W) of 2019 in the case of Madan Mohan Biswas and others versus the State of West Bengal and others whereas the said case stands on a different footing. He has also submitted that the amount of ₹20,000/- which has been awarded as costs to each of the writ petitioner is on the higher side.

Learned counsel for the respondents has supported the impugned order and has submitted that no error has been committed by the learned Single Judge in granting interest @ 8%. He has further submitted that it is the duty of the welfare State to take into account the interest of his citizens and that there was a delay in payment of ex gratia amount, therefore, the costs has rightly been awarded.

We have heard the learned counsel for the parties and perused the record.

Undisputedly, the respondents (writ petitioners) were entitled to receive of ₹50,000/- as ex gratia amount at the time of their retirement and the said amount was not paid within time and there was a delay in making payment of the amount. Along with writ petition the petitioners had enclosed the chart (annexure-P1) disclosing the date of retirement and date of receipt of the ex gratia amount. The said chart clearly reflects the delay in making the payment of the ex gratia amount.

Similar issue had come up in another petition in WP 2396(W) of 2019 in the case of Madan Mohan Biswas and others versus the State of West Bengal and others wherein learned Single Judge by order dated 7th February, 2019 had granted interest @ 8 % per annum from the date following the date of the concerned petitioner's retirement till the actual date of payment.

A distinction sought to be drawn by the learned counsel for the appellants on the ground that in that case the payment was not made when the writ petition was filed is of no consequence as in that case also the Court had taken into account the delay in making the payment and had awarded the interest accordingly.

The record further reflects that in another petition being WP6854 (W) of 2019 in the case of Sk. Nabi Box and others versus the State of West Bengal and others learned Single Judge by order dated 4th April, 2019 in similar circumstances had granted interest @ 8 % for the delayed payment of ex gratia amount.

Undisputedly, these orders have been complied with and the appellants had paid the interest @ 8% to those petitioners.

Hence, the appellants are not justified in taking a different view and challenging the award of interest @ 8 % in the present case.

Even otherwise, we find the interest which has been awarded by the learned Single Judge is reasonable in the facts of the present case. Hence, we affirm the

order of the learned Single Judge so far as it relates to award of interest @ 8 % towards delayed payment of the ex gratia amount.

So far as the costs of ₹20,000/- which has been awarded by the learned Single Judge to each of the 40 petitioners is concerned, we find that the costs is on the higher side having regard to the nature of claim of the writ petitioners, amount receivable by them as interest and the fact that ex gratia amount was already paid before filing of the writ petition. Hence, we are of the opinion that costs awarded by the learned Single Judge is liable to be reduced. Hence, we dispose of this appeal and reduce the costs from ₹20,000/- to ₹5,000/- per petitioner.

The appeal is accordingly disposed of.

Connected application is also disposed of.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)