

OD-15

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE
WPO/1271/2023

TAPAN KUMAR DEY
VS
THE STATE OF WEST BENGAL AND ORS.

BEFORE:

The Hon'ble JUSTICE LAPITA BANERJI

Date : 22nd September, 2023

Appearance:
Mr. Debdutta Basu, Adv.
... for the petitioner.

The Court :- Affidavit of service filed in Court today be retained with the records.

In this writ petition, the petitioner claims for disbursement of interest at the rate of 10 per cent per annum on the retiral benefits aggregating to Rs.57,55,788/- (Rupees Fifty Seven Lakh Fifty Five Thousand Seven Hundred and Eighty Eight only) from January 1, 2021 (date succeeding the date of retirement) till February 25, 2021 (date of actual payment) and on the sum of Rs.18,07,123/- (Rupees Eighteen Lakh Seven Thousand One Hundred and Twenty Three only) from January 1, 2021 (date succeeding the date of retirement) till March 1, 2021 (date of actual payment). The petitioner worked as permanent employee with Calcutta Tramways Co. (1978) Ltd., now known as West Bengal Transport Corporation Limited (WBTCL).

The writ petitioner retired from service with effect from December 31, 2020.

The issue of payment of interest on delayed payment of retiral benefits has been considered by the Hon'ble Supreme Court in two judgments reported in 2021 (11) SCC 543 (**State of Andhra Pradesh & Anr. Vs. Dinavahi Lakshmi Kameswari**) and also in 2022 (4) SCC 627 (**Dr. A. Selvaraj vs. CBM College & Ors.**). In **Selvaraj** (supra) it was held that the delay in payment of retiral benefits was due to no fault on the part of the petitioner. It was an obligation on the part of the employer to process the retiral benefits and pay the same within one month of the date of the petitioner's retirement. Since the payment was not made within one month, the interest was held to date back to the date succeeding the date of the petitioner's retirement.

Following the aforesaid judgments of the Apex Court and also the judgment passed by Co-ordinate Bench of this Hon'ble Court in WPO No. 2279 of 2022 (**Swapan Kumar Das vs. The State of West Bengal**), this Court holds that interest at the rate of 6 per cent per annum should be paid by the respondent company to the petitioner from January 1, 2021 to February 25, 2021 and over Rs.18,07,123/- from January 1, 2021 to March 1, 2021 within three months from date. In the event there is any default in payment of interest within the stipulated period, the rate of interest will stand increased to 10 per cent per annum being the rate payable at present under the Payment of Gratuity Act, 1972.

Since affidavits have not been invited in the present writ petition, the allegations made in the writ petition are deemed not to have been admitted by the parties.

With the aforesaid directions, the writ petition, **being WPO No. 1271 of 2023** is **disposed of**.

All parties are to act on a server copy of 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.)