

ML. 313
03.04.2024
Court No. 24
AGM

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 1744 of 2023

**Susan Mukhopadhyay
-versus
The State of West Bengal & Ors.**

**Mr. Tulsidas Maity.
Mr. Snehasish Bala.
... for the petitioner.**

**Mr. Swapan Kr. Majumdar.
Mr. Saptarshi Majumdar.
... for the Municipality.**

The petitioner is a retired employee of the Nabadwip Municipality.

The Pension Payment Order in accordance with the ROPA 2019 has been issued in his favour on 29th November, 2021.

The petitioner alleges that the gratuity, arrear pension and arrear salary is due and payable to him.

The petitioner submits that a total sum of Rs. 20,63,514/- is due and payable to him. The details of the dues are clearly mentioned in the representation filed by the petitioner before the Chairman of the Municipality.

Learned advocate representing the Municipality submits that due to paucity of fund, total dues of the petitioner cannot be paid. There are several retired employees of the Municipality and till the Government grants aid to the Municipality, it will not be possible for the Municipality to arrange funds to disburse the terminal dues of the retired employees.

The aforesaid submission of the municipality that payment of terminal dues cannot be made on account of paucity of funds cannot be accepted by the Court.

The municipality is the principal employer of the petitioner. It is the duty of the employer to arrange for funds for payment of the terminal dues of its employee.

In view of the above, the instant writ petition is disposed of by directing the Nabadwip Municipality to clear the terminal dues of the petitioner at the earliest but positively within 31st of July, 2024.

As the petitioner retired from service on 31st October, 2019 and has not received his terminal dues till date, accordingly, the petitioner will be entitled to receive the terminal dues along with interest at the rate of 7% calculated on and from due date till the date of actual payment.

It is made clear that in the event the aforesaid amount along with interest is not paid within the stipulated time period, then the petitioner will be entitled to receive the amount with additional interest of 2%, that is, $7\% + 2\% = 9\%$ on and from due date till the date of actual payment.

It will be open for the municipality to seek for funds from the State Government to clear the dues, if so advised.

The writ petition stands disposed of.

Urgent certified copy of this order, if applied for, be supplied to the parties expeditiously, on compliance of usual legal formalities.

(Amrita Sinha, J.)