

DL-36

11.11.2024
Court No.26

(AD)

(Disposed of)

MAT 179 of 2023
with
IA No.: CAN 1 of 2023

Sri Dhirendra Nath Mondal
Vs.
The State of West Bengal and Ors.

Mr. Deepnath Roy Chowdhury, Advocate
Mr. Bhaskar Dwivedi, Advocate
Ms. Jyoti Rauth , Advocate
Mr. Surajit Singh, Advocate
... for the appellant.

Mr. Kishore Dutta, Ld. Advocate General
Mr. Rajarshi Basu, Advocate
Mr. Anand Farmania, Advocate
... for the State respondents

Mr. Ayan Banerjee, Advocate
Ms. Debasree Dhamali, Advocate
Ms. Riya Ghosh, Advocate
... for the SBSTC.

1. Appeal is directed against the order dated January 3, 2023 passed in WPA 3551 of 2021.
2. Appeal is at the behest of the appellant.
3. Appellant superannuated from his services with the South Bengal State Transport Corporation (SBSTC) as a Conductor. He was occupying a quarter allotted to him during the period of employment. On his superannuation, retiral benefits were not released. Appellant, therefore, filed the writ petition resulting the impugned order.
4. By the impugned order, the learned Single Judge found that, the receipt of retiral benefits cannot be delinked with the obligation of the appellant to

vacate the quarter allotted to him in course of his employment.

5. During the pendency of the appeal, learned Advocate General appeared and submitted that, other similarly situated and circumstanced staff of SBSTC as that of the appellant were allowed to retain the quarter allotted to such staff during their employment subsequent to their superannuation. Similar facility should be extended to the appellant.
6. Based on such stand, State proceeded to regularize the allotment of the quarter in occupation of the appellant subsequent to his superannuation.
7. Learned Advocate appearing for the State submits that, the quarter allotted to the appellant during his service period stands allotted to the appellant.
8. Learned Advocate appearing for the appellant submits that, all retiral benefits including gratuity should be released to the appellant forthwith. He submits that, the appellant is entitled to reasonable interest on the gratuity not paid till date.
9. Learned Advocate appearing for the SBSTC submits that, the question of payment of interest does not arise as the regularization of the illegal occupation of the quarter was made only in September, 2024.

10. We considered the rival contentions of the parties.
11. Appellant was enjoying a quarter allotted to him during the course of his employment. In view of the State allotting such quarter to the retired employee on his superannuation, appellant was also entitled to retain such quarter upon his superannuation. State was obliged to allot such quarter to the appellant on his superannuation. State did not do so resulting in withholding of the retiral benefits of the appellant by SBSTC. Therefore, the retention of the retiral benefits of SBSTC was without any foundational basis. The failure of the State to regularize the allotment of the quarter to the appellant on his superannuation cannot be foisted upon the appellant.
12. In such circumstances, we direct SBSTC to disburse all retiral benefits to the appellant forthwith. So far as gratuity is concerned, we direct SBSTC to pay gratuity to the appellant along with simple interest calculated at the rate of 8 per cent per annum from the day following his superannuation till the date of payment.
13. We award such rate of interest after taking judicial notice of the fact that, nationalized bank awards interest at rates of 7 to 7.5 per cent or thereabout in respect of fixed deposits.
14. The payments as directed be made within six

weeks from date.

15. The impugned order dated January 3, 2023 is set aside.
16. **MAT 179 of 2023** along with all connected applications are disposed of without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)