

16.07.2024

Sl. No. 02

Ct. No. 23

Srimanta

WPA/10108/2024

Prafulla Kumar Das

-Vs.-

State of West Bengal & Ors.

Mr. Srinjay Sengupta,
Mr. Saurav Roy,
Mr. Narattam Acharyya,
Mr. Ankush Ghosh

...for the petitioner.

Mr. Subrata Guha Biswas,
Mr. Hemant Kumar Das

...for the State.

Mr. Niladri Bhattacharjee,
Mr. Priyanka Kundu

...for the WBTCCL.

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

The petitioner retired from the services of Calcutta Tramways Company (1978) Ltd. (in short, CTC) now known as West Bengal Transport Corporation Limited (in short, WBTCCL) on 30th April, 2013. The petitioner claims interest on the delayed payment of benefits under the West Bengal Services (Revision of Pay and Allowance) Rules, 1998 (in short, ROPA 1998), the benefit whereof was given to the petitioner by the memoranda respectively dated 23rd June, 2000 and 21st July, 2000. The petitioner says that under the memorandum dated 21st July, 2000, the petitioner was assured by the respondents that

the arrears between 1st April, 1997 and 31st March, 2000 shall be paid in five annual installments, the first of which will be not before 1st November, 2002 with interest to be calculated from 1st April, 2000 at the rate applicable in case of provident fund. The petitioner has been paid the said arrears between September, 2006 and January, 2008. The petitioner says that he is entitled to interest for this delay in paying the arrears. The petitioner's claim for interest accrued in terms of the memorandum dated 21st July, 2000 on the arrears amount from 1st April, 2000. The payment of arrears has been made with interest but not by five annual installments on and from 1st November, 2002. The petitioner, therefor, became entitled to interest on the arrears amount for the delay beyond the scheduled date of payment as assured under the memorandum dated 21st July, 2000. This right accrued with the full and final payment of the arrears in January, 2008. The petitioner's right to claim this interest continued till up to his date of retirement when the employer was supposed to pay the interest along with his other retiral benefits. The petitioner retired from the services on 30th April, 2013 and, therefore, became entitled to claim such interest on or after the said date. The petitioner has approached the Court for

such relief on 8th April, 2024 that is beyond a reasonable period of time even if the benefit of pandemic between 15th March, 2020 to 28th February, 2022 is given to the petitioner.

The right to initiate proceedings for realizing the interest for delayed payment of the ROPA benefits, therefor, arose in favour of the petitioner for the first time on 30th April, 2013. The petitioner ought to have approached the Court within a reasonable time from such date. Admittedly, the petitioner has approached this Court by filing the instant writ petition after a lapse of about 11 years. The delay is inordinate and as such is required to be rejected in ordinary course following the ratio laid down in ***Union of India-Vs.-Tarsem Singh reported in (2008) 8 SCC 648.***

Considering that the matter relates to delayed payment of ROPA benefits which the employer had promised to pay with interest in a time bound manner as also keeping in mind the relaxation granted between 15th March, 2020 and 28th February, 2022 on account of pandemic, I am inclined to take a lenient view. Instead of dismissing the writ petition, the matter is relegated to the Managing Director, WBTCL, being the respondent no. 4 in this writ petition as mandatory orders cannot be made due to long delay.

The respondent no. 4 shall consider the claim of interest for delayed payment of the principal amount, if any receivable by the petitioner.

It is made clear that I have not gone into the merits of the case and the respondent no. 4 shall be free to decide on the issues independently without being influenced in any manner whatsoever by the observations made in this order except the delay.

It is expected that the entire exercise should be completed by the respondent no. 4 within 3 months from the date of communication of this order.

The petitioner shall communicate a server copy of this order to the respondent no. 4, who shall act on the basis of such order without insisting upon production of a certified copy thereof.

Nothing further remains to be adjudicated in this writ petition. The same is accordingly disposed of.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)