

WPST 72 of 2024

(Sri Tarak Nath Mallick Vs. The State of
West Bengal & Ors.)

Mr. Chittapriya Ghosh
Ms. Priyanka Saha

..... For the petitioner

Mr. Tapan Kumar Mukherjee, Ld. AGP
Mr. Somnath Naskar

..... For the State

Mr. Sourav Mondal
Mr. S. Paul

..... For the respondent no. 3

Affidavit-of-service filed by the petitioner be kept on record.

The present writ petition has been preferred challenging an order dated 05.02.2024 passed by the learned Tribunal in the original application being OA 487 of 2022. By the said order, the learned Tribunal, in the absence of the learned advocate for the petitioner, disposed of the original application '*without passing any order*'.

Mr. Ghosh, learned advocate appearing for the petitioner submits that petitioner retired from the post of Assistant Headmaster at Taki Government High School on 30. 03. 2020. In spite of submission of all relevant documents and completion of all formalities in time, the respondents illegally withheld the petitioner's retiral dues and disbursed the provident fund, gratuity and arrears of

pension belatedly about 18 months after his retirement. The delay which occurred is clearly attributable to the respondents and as such, the petitioner submitted a representation to the respondent no. 2 claiming interest on 07. 07. 2022 but the same was not considered. Aggrieved thereby, the petitioner filed the original application.

He further submits that on 05.02.2024, the petitioner's learned advocate failed to appear before the learned Tribunal and the original application was disposed of by the impugned order. For the laches on the part of the learned advocate, the petitioner cannot be made to suffer. Though the learned advocate of the petitioner was not present, the learned Tribunal heard the matter sitting singly erroneously observing that '*on consent*' the matter has been taken up for hearing.

We have heard Mr. Ghosh, learned advocate appearing for the petitioner, Mr. Mukherjee, learned Additional Government Pleader appearing on behalf of the State respondents and Mr. Paul, learned advocate appearing for the respondent no. 3 and considered the materials on record.

A perusal of the order impugned reveals that the learned Tribunal had mechanically disposed of the original application '*without passing any order*' and observing erroneously that the applicant was not interested to proceed and that '*on consent*' the matter has

been taken up for hearing though none was present on behalf of the petitioner and as a consequence thereof, the petitioner had been the worst sufferer.

In view thereof, the order impugned dated 05. 02. 2024 passed by the learned Tribunal in the original application being OA 487 of 2022 is set aside.

The petitioner retired on 30. 03. 2020 and admittedly his retiral dues were withheld for about 18 months and his representation submitted to the respondent no. 2 on 07. 07. 2022 claiming interest was not responded to. The original application filed thereafter was pending for about two years and ultimately disposed of on 05. 02. 2024 *‘without passing any order’*.

Considering the nature of the dispute, we are of the opinion that no useful purpose will be served by relegating the matter again to the learned Tribunal for consideration afresh.

Accordingly, with the consent of the parties, the writ petition along with the original application are disposed of with a direction upon the respondent no. 2 to consider the petitioner’s representation dated 07. 07. 2022, upon granting an opportunity of hearing to the petitioner, the school authorities and other interested parties, if any and to pass a reasoned order as regards the petitioner’s entitlement towards interest for delayed disbursement of his retiral dues, including provident fund, gratuity and

arrears of pension and to communicate the decision to the petitioner.

The above exercise shall be completed by the said respondent no. 2 within a period of 12 (twelve) weeks from the date of communication of this order along with the copies of the writ petition and the original application.

Needless to observe, in the event the petitioner's claim deserves acceptance, all necessary follow up steps shall be taken by the authorities forthwith.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)