

05.11.2024
Court No. 18
Item No. 69 (ML)
(Suvendu)

WPA 11811 of 2023

Oramba Ghosh & Ors.
[Birinchi Kumar Ghosh (Since deceased)]
-Versus-

The State of West Bengal & Ors.

Mr. N.G.Mukherjee
Mrs. Kaushiki Chakraborty
for the petitioner

At the time of call, no one appears for the
State respondents.

By the present writ petition substituted
petitioners who are heirs of deceased teacher
being the original petitioner are praying for
direction upon State authorities to sanction
interest on gratuity and on sum of Rs.
1,06,882/- which was deducted from the
gratuity of the petitioner as reflected from the
first Pension Payment Order dated 23rd October,
2002. Copy of the first Pension Payment Order
dated 23rd October, 2002 is not part of the writ
petition but the same is placed before this Court
in course of hearing and same is taken on
record.

Original petitioner retired on
superannuation on 31st October, 2002 and
before his retirement first Pension Payment

Order was issued on 23rd October, 2002. State respondents found that Rs. 1,06,882/- was drawn in excess by the original petitioner, therefore, said sum was deducted from the gratuity at the time of releasing retiral dues to the original petitioner.

Steps taken by the State respondents to adjust Rs. 1,06,882/- from the gratuity of the petitioner was questioned by the original petitioner in a writ petition being WPA 8509 of 2016 which was allowed by a Coordinate Bench by judgment dated 25th February, 2022 whereby the order of Commissioner of School Education dated 17th March, 2015 denying pay protection to the original petitioner was set aside and direction was given upon the State authorities to release the sum in favour of the petitioner which was deducted at the time of releasing retiral dues.

However while allowing the writ petition vide order dated 25th February, 2022 the Coordinate Bench did not grant interest on the said sum which was deducted from the gratuity of the petitioner and on perusal of the said judgment it does not appear that any claim was lodged for payment of interest.

After receiving the benefits original petitioner filed the present writ petition claiming interest on gratuity and arrear pension. Before superannuation of the original petitioner on 31st October, 2002 first Pension Payment Order was issued on 23rd October, 2002 by the State respondents releasing retiral dues including pension but a sum of Rs 1,06,882/- was deducted from the gratuity of the original petitioner since it was decided by the State authorities that original petitioner is not entitled to get pay protection. In this regard, an order was passed by the Commissioner of School Education on 17th March, 2015 which was ultimately set aside by the Coordinate Bench.

Since prior to date of superannuation Pension Payment Order was issued in favour of the original petitioner and at the time of deciding the writ petition being WPA 8509 of 2016 no leave was granted to the petitioner to lodge further claim for payment of interest on the amount which was deducted from the gratuity of the petitioner, this Court is not inclined to grant interest as claimed first by the original petitioner by presenting this writ petition and subsequently after death of the original petitioner by the substituted petitioners.

It needs to be recorded that retiral benefits as well as the sum which was wrongly deducted from the gratuity of the petitioner have been released.

Accordingly, the writ petition stands dismissed.

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

Urgent Photostat certified copy of this order, if applied for be given to the parties on usual undertakings.

(Saugata Bhattacharyya, J.)