

29.07.2024
Sl. No.4
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 13533 of 2024

Raj Kumar Tiwari
Vs.
Union of India & Ors.

Mr. Samim Ahammed,
Mr. Aminuddin Khan,
Ms. Gulsanwara Pervin

....for the petitioner.

Mr. Prabir Bhowmick,
Mr. Prithu Dudhuria

....for the respondent nos.1, 2, 6, 7 & 8.

Ms. Parna Roy Choudhury

.....for the Bank.

The petitioner worked in the Army till 31st January, 2001. The petitioner was provided pension by the Defence Accounts (Pensions). The petitioner was receiving the pension in his bank account maintained with Punjab National Bank (in short, PNB), Lalbagh Branch, Murshidabad. Subsequently, the petitioner was implicated in a criminal case and was booked under Sections 302/34, 307/34 and 325/34 of the Indian Penal Code, 1860. The petitioner was convicted in the said case on 20th February, 2021. The petitioner's employer on coming to know that the petitioner has been entangled in a criminal case had stopped the pension by directing

the Manager of the concerned bank so that the petitioner's pension account was not credited with the monthly pension. The petitioner has been subsequently acquitted by this Court in an appeal preferred against the order of conviction. The judgment in the appeal, being CRA 170 of 2021, was passed on 20th March, 2023. The petitioner says that on being acquitted the petitioner has become entitled to receive the current pension as also the arrears of pension from his employer under the provisions of the Defence Pension Payment Instructions (Defence PPI), 2013.

On behalf of PNB, it is submitted that the said bank is not the disbursing authority. It only credits the pension account of the petitioner on receiving installments the funds from the employer.

On behalf of the employer, it is submitted till now the petitioner has not communicated the acquittal order, and as such, nothing could be done.

Although, the principal claim in the writ petition is against the Ministry of Defence or the authority but in view of the involvement of the bank, this Court has found it fit that instead of sending the matter to the Armed Forces Tribunal constituted under the Armed Forces Tribunal Act, 2007, but to pass orders in the instant writ petition.

In the aforesaid facts and circumstances, after hearing the parties and considering the materials on record, I direct the respondent nos.6 and 7 to reinstate the current pension of the petitioner from the month of August, 2024 to be paid by 10th August, 2024 and pay the arrears of the pension for the period from which it was stopped till 31st July, 2024 in four equal monthly instalments, the first of which shall start from 16th August, 2024. The entire exercise should be completed as expeditiously as possible, but not beyond time provided therein.

Since the order is passed in the presence of the learned advocate representing the respondent nos.6 and 7, no further communication shall be made. However, by way of abundant caution, the petitioner shall communicate a server copy of this order upon the respondent nos.6 and 7 by 31st July, 2024.

Needless to mention that PNB and in particular Lalbagh Branch of the said bank, immediately upon receiving the instructions from the respondent nos.6 and 7, shall credit the account of the petitioner with the current pension for the month of August, 2024.

It is also clarified on and from September, 2024, the pension should be paid within 10th of each succeeding month. Since the pension was stopped on the basis of a criminal case wherein the petitioner

was initially convicted no interest on the arrears of pension is allowed.

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 all necessary formalities.

(Arindam Mukherjee, J.)