

16.07.2024
Sl. No.121
ab

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 16590 of 2024

Krishna Nand Mishra
Vs.
The State of West Bengal & Ors.

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

... for the petitioner

Mr. Niladri Bhattacharjee,
Ms. Priyanka Kundu

... for the WBTCCL

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

The writ 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 28th February, 2017 . The petitioner was paid his retiral benefits on 30th June, 2017 amounting to Rs. 25,72,681/-. The petitioner, therefore, claims interest on the delayed payment of the retiral benefits amounting to Rs. 25,72,681/- for the period between 1st March, 2017 and 30th June, 2017.

It is well settled that the retiral benefits of an employee has to be paid within a period of one month from the date of his retirement failing which the employer becomes liable to pay interest for the

delayed period. The petitioner became entitled to interest on 1st July, 2017. The retiral benefits were paid without any accrued interest thereon. The petitioner, however, in the instant case has waited for about seven years to approach this Court by filing the instant writ petition for a direction upon the WBTCL, the employer to pay interest for delay in making the payment of the retiral benefits. In the instant case, there has been long delay in approaching the Court. The right to institute the proceedings, therefore, arose for the first time on 1st July, 2017. The right to claim by initiating proceedings does not get deferred. However, keeping in mind that the rejection of the claim on the ground of delay is likely to cause hardship to the petitioner, I am inclined to direct the petitioner's claim for interest on the delayed payment be considered by the respondent without dismissing the writ petition, which could have been the fate of this application in ordinary course, particularly when the delay occurred from the employer's end. The delay in approaching the Court in the instant case, however, disentitles the petitioner from getting a mandatory order for his claim to be considered.

Considering that the matter relates to delayed payment of retiral benefits and the interest claimed thereon 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.

The respondent no. 4 shall consider the issue of payment of interest for delayed payment of the retiral benefits, if any, and dispose of the same by a reasoned order after affording the petitioner a reasonable opportunity of hearing.

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.)