

03. 30.01.2024
bd. Ct.15

WPA 14321 of 2016

Smt. Bharati Karmakar & Ors.

-VS-

The State of West Bengal & Ors.

Mr. Suman Banerjee ... for the petitioners.

Mr. Tapan Kumar Mukherjee

Ms. Tuli Sinha ... for the State.

In the writ petition petitioners being the wife and daughters of retired clerk-cum-typist of Berhampore Panchayat Samity have prayed for release of terminal benefits in connection with the service rendered by Monoj Mohan Karmakar till date of his retirement on 31st July, 2000.

Monoj Mohan Karmakar being the deceased employee of Berhampore Panchayat Samity was appointed as peon on 1st May, 1965 and he was promoted to the post of clerk-cum-typist on 13th January, 1981. However, he could not discharge his duty on and from 9th August, 1995 and subsequently when he tried to join his duty on 12th December, 1995 he was not allowed by the panchayat authorities. Thereafter the service of the deceased employee was terminated vide order dated 12th January, 1996 on the allegation of unauthorised absence and defalcation of government money. The termination order dated 12th January, 1996 was set aside by a coordinate Bench vide order dated 4th July, 2002. For non-payment of retiral dues after the date of superannuation on 31st July, 2000 a contempt

application was moved which was dismissed by a coordinate Bench vide order dated 9th August, 2006 with a liberty granted to the employee to take steps in accordance with law for release of retiral dues. The order dated 9th August, 2006 passed by the coordinate Bench on the contempt application was assailed before the Apex Court but the challenge before the Apex Court failed. The Apex Court vide order dated 18th May, 2007 while dismissing the Special Leave Petition granted leave to the appellant to initiate proceeding with regard to entitlement to pension, if he is so advised. Subsequently employee filed a writ petition being WPA 21159 of 2006 and the same was disposed of by a coordinate Bench vide order dated 26th September, 2006 granting leave to the employee to make a detailed representation to the Berhampore Panchayat Samity, Murshidabad and which was directed to be disposed of by passing a reasoned order within a specified time. Since no decision was taken by the concerned respondent authorities after granting opportunity of hearing to the deceased employee subsequently another writ petition was filed being WPA 12304 of 2008 and the same was disposed of by directing the concerned panchayat authorities to dispose of the representations of the deceased employee dated 14th November, 2006 and 18th June 2007 within a specified time after granting opportunity of hearing. Thereafter, impugned order has been passed on 7th April, 2010 by the Executive Officer, Berhampore Panchayat Samity, Murshidabad, being respondent no. 6 which is under challenge. It has been submitted on behalf of the petitioners when order

of termination dated 12th January, 1996 on the allegation of defalcation and mis-appropriation of government money was set aside by a coordinate Bench on 4th July, 2002 subsequently respondent no. 6 cannot deny release of retiral benefits to the petitioners herein on the suspicion of defalcation of money at the instance of the deceased employee.

State respondents are represented by learned advocate. However, Berhampore Panchayat Samity, in spite of receipt of notice is not being represented today.

Affidavit of service filed on behalf of the petitioners is taken on record.

Having considered the submissions made on behalf of the parties present today and on chronological analysis of the facts as well as taking note of the order dated 7th April, 2010 passed by the respondent no. 6 it appears that the respondent no. 6 is not authorised to deny release of terminal benefits in favour of the petitioners being the wife and daughters of the deceased employee on the ground that authorities suspected that the deceased employee defalcated fund. In addition thereto the case of the petitioners stands fortified in view of quashing of termination order dated 12th January, 1996 issued against the deceased employee by a coordinate Bench vide order dated 4th July, 2002. There is nothing on record which goes to show that after quashing of the termination order of the deceased employee on 4th July, 2002 by the coordinate Bench any further disciplinary

proceeding was initiated against the deceased employee. Furthermore, the deceased employee retired on 31st July, 2000.

Accordingly, impugned order dated 7th April, 2010 passed by the respondent no. 6 stands set aside.

The concerned respondent authorities are directed to release terminal benefits in favour of the petitioners in view of death of the employee after his superannuation on 31st July, 2000 within a period of twelve weeks from the date of communication of this order upon compliance of all formalities. For causing unexplained delay in settling the pension case the respondent authorities are directed to pay the interest on the terminal benefits @ 8% p.a. from 8th August, 2016 being the date of instituting this writ petition till the date of release of the same.

With the aforesaid direction the writ petition stands disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)