

DL - 10
17.09.2024
Ct No. 18
S. Das

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 21447 of 2024

Basudeb Hati
Vs.
The State of West Bengal & Ors.

Mr. Saikat Banerjee
Mr. Subhrangsu Panda
... for the petitioner

Mr. Sahabuddin Sardar
Mr. Murari Chakraborty
... for the respondents.

Affidavit-of-service filed on behalf of the
petitioner is taken on record.

This matter is taken up in presence
of learned advocates representing the petitioner and
the State respondents.

The petitioner by presenting this writ
petition, inter alia, has prayed for interest on life-
time arrear pension in connection with service of his
father from 1st April, 1995 to 21st December, 2013.

The father of the petitioner retired on 31st
March, 1995 from the post of clerk of a government
aided school and received all benefits under
Contributory Provident Fund Scheme.
Subsequently, father decided to switch over from
the Contributory Provident Fund Scheme to General

Provident Fund cum Pension including Family Pension Scheme. Father of the petitioner died on 21st December, 2013 when conversion from C.P.F to G.P.F was not complete. Subsequently, Pension Payment Order was issued on 25th March, 2019 in favour of mother of petitioner in terms of the order dated 12th December, 2016 and the mother received family pension on compliance of formalities.

It is also submitted that in terms of the order dated 2nd January, 2024 of the Hon'ble Division Bench passed on an intra-court appeal being FMA 1211 of 2022, arrear pension in connection with service of petitioner's father for the period from 1st April, 1995 to 21st December, 2013 was paid to the petitioner leaving aside all other legal heirs upon giving credence to a will which the petitioner's mother executed and probate was obtained on 24th July, 2023 by the petitioner. Petitioner has claimed interest on arrear pension for the period from 1st April, 1995 to 21st December, 2013 due to delay in releasing arrear pension of his father.

Having considered the submissions made on behalf of the petitioner and taking note of the relevant materials available on record, it is found that father of the petitioner was non-teaching staff

of a school who retired on 31st March, 1995 and died on 21st December, 2013. Mother of the petitioner, Bimala Hati along with other legal heirs of the deceased employee obtained an order in a writ petition being WPA 14630 of 2000 passed by a co-ordinate Bench on 12th December, 2016. By the said order, the co-ordinate Bench directed the concerned State respondent to issue a fresh pension payment order after the refund to be made based on calculation of the State respondents for conversion from C.P.F to G.P.F. Refund was accordingly made resulting in issuance of pension payment Order dated 25th March, 2019. Whether in the context of above set of facts, petitioner being one of the legal heirs is entitled to receive interest on life time arrear pension which was paid to him for the period from 1st April, 1995 to 21st December, 2013 or not.

On perusal of order of the Hon'ble Division Bench dated 11th January, 2021 passed on intra-court appeal being MAT 388 of 2018, it appears that the State respondents preferred an appeal against the order dated 12th December, 2016 passed by the co-ordinate Bench on the writ petition being WPA 14630 of 2000 and the same was disposed of on 11th January, 2021 recording that employee's share under Contributory Provident Fund with interest

and additional interest was deposited and pension payment order was issued, therefore, nothing remains to be decided.

At the time of disposal of the appeal on 11th January, 2021, no prayer was made on behalf of the writ petitioner / respondents to grant interest on arrear pension from the date following the date of superannuation of petitioner's father till the death of the employee.

Furthermore, from the subsequent order dated 2nd January, 2024 passed by the Hon'ble Division Bench on another intra-court appeal being FMA 1211 of 2022, it appears that no such prayer was made on behalf of the petitioner when the Hon'ble Division Bench directed the concerned Treasury Officer to disburse lifetime arrear pension to the petitioner. Since the petitioner did not raise the issue at the time of disposal of the appeal being FMA 1211 of 2022, subsequent prayer of the petitioner for payment of interest on lifetime arrear pension is not countenanced.

It is submitted on behalf of the petitioner that after the order was passed by the co-ordinate Bench on 12th December, 2016 his claim for arrear pension was resisted by the State respondents, but the fact was mother of the petitioner was

substituted as petitioners along with the other legal heirs in WPA 14630 of 2000 after death of the petitioner's father on 21st August, 2013. Said writ petition was disposed of on 12th December, 2016. Against the said order dated 12th December, 2016, State preferred appeal being MAT 388 of 2018 but the same was disposed of since it was found by the Hon'ble Division Bench employee's share under the Contributory Provident Fund with interest and additional interest was deposited in connection with the contempt proceeding being CPAN 420 of 2018 which was pending before the co-ordinate Bench. Therefore, it appears that the appeal could not be pursued by the State respondents in view of compliance of the order dated 12th December, 2016 passed by the co-ordinate Bench in connection with contempt proceeding; as such there was no conscious delay on the part of the State respondents in releasing lifetime arrear pension to the petitioner and the mother of the petitioner contemporaneously did not lay claim for interest. In the subsequent order of the Hon'ble Division Bench dated 2nd January, 2024 also, claim for interest was not raised by the petitioner and in terms of the said order dated 2nd January, 2024 life-time arrear pension was paid to the petitioner giving credence to the probate obtained by the petitioner on 24th July,

2023, in connection with will executed by mother in favour of petitioner.

Hence, the writ petition stands dismissed.

There shall be no order as to costs.

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

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

(Saugata Bhattacharyya, J.)