

Form No. J(2)
Item No.4
Court No.26

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Md. Shabbar Rashidi

**M.A.T.2123 of 2023
IA NO: CAN/2/2024**

**United India Insurance Company Limited
VS.
Sajal Kumar Banerjee & ors.**

For the Appellant : Mr. Shiv Shankar Banerjee
Advocate

For the
Respondent No.1 : Mr. Subir Sanyal, Advocate
Mr. Sutirtha Das, Advocate
Mr. Sagnik Roy Chowdhury
Advocate
Mr. Sourojit Mukherjee, Advocate

Hearing on : 13.06.2024

Judgment on : 13.06.2024

DEBANGSU BASAK, J.:-

1. By consent of the parties, appeal is taken up for final hearing on
the basis of the papers made available to Court.

2. Appellant is aggrieved by the impugned order directing the appellant to pay interest at the rate of 6% per annum from the date of the monthly salary becoming due till the date of actual payment.

3. Learned advocate appearing for the appellant submits that, the private respondent/respondent no.1 suffered a departmental proceeding. In such departmental proceeding, an order of the dismissal from service was passed as against the private respondent/respondent no.1. Private respondent/respondent no.1 filed a writ petition which was allowed. The departmental proceeding was directed to be reconsidered on certain issues. An appeal was carried. During the pendency of the appeal which was at the behest of the appellant, private respondent/respondent no.1 superannuated from service. The appeal was subsequently dismissed and a Special Leave Petition was carried which was also dismissed.

4. Learned advocate appearing for the appellant submits that, thereafter, a fresh order for dismissal from service was passed as against the private respondent/respondent no.1 which was assailed in a writ petition. Such writ petition was allowed.

5. Learned advocate appearing for the appellant submits that, thereafter, the appellant paid the retiral benefits to the private respondent/respondent no.1 along with requisite interest. Arrears of salaries were also paid. He, therefore, submits that, burdening the

appellant with a direction for payment of interest for the period of non-payment of salary is harsh and burdensome and should be set aside.

6. The private respondent/respondent no.1 is represented.

7. We find from the records that, the private respondent/respondent no.1 was proceeded against departmentally. An order of penalty of dismissal from service was initially imposed in such departmental proceeding as against the private respondent on October 3, 2008. Private respondent/respondent no.1 preferred an appeal which the Appellate Authority rejected by an order dated May 21, 2009. Review application of the private respondent/respondent no.1 was dismissed on July 29, 2010.

8. During the entirety of the period of the departmental proceeding, the private respondent/respondent no.1 was not suspended.

9. Subsequently, the private respondent/respondent no.1 filed a writ petition in 2011 which was allowed on September 25, 2013. The order of the Disciplinary Authority as affirmed in appeal and on review was set aside. Disciplinary Authority was directed to re-visit the issues afresh.

10. Being aggrieved by the order dated September 25, 2013 in the writ petition the appellant preferred an appeal. Such appeal was dismissed on March 20, 2018. During the pendency of the appeal, the private respondent/respondent no.1 superannuated from service on April 23, 2014.

11. Appellant before us preferred a Special Leave Petition against the order of dismissal dated March 20, 2018 of the Division Bench. Such

Special Leave Petition was dismissed on September 28, 2018. Private respondent/respondent no.1 thereafter filed a contempt petition for implementing the order of the learned Single Judge.

12. The Appellate Authority, passed an order imposing penalty on March 15, 2019 against the private respondent/respondent no.1. Aggrieved by such order, a writ petition was filed which was disposed of by an order dated August 30, 2019 directing the authorities to pay all the dues of the private respondent/respondent no.1.

13. Thereafter, appellant paid the retiral benefits of the private respondent/respondent no.1. However, the private respondent/respondent no.1 was not favoured with the interest on the delay in payment of salary. Consequently, the private respondent/respondent no.1 filed a writ petition being WPA 12032 of 2021 which was disposed of by the order dated September 1, 2023 which is impugned in the present appeal.

14. Learned Single Judge took into the consideration the fact that, there was a delay in payment of the retiral benefits to the private respondent/respondent no.1. Learned Judge correctly held that, the private respondent/respondent no.1 was entitled to claim and receive interest on the amounts under different heads as and when they fell due till the date of actual payment. Learned Judge found that salary for each month was payable at the beginning of the next month. The same was not paid. Therefore, the learned Judge proceeded to award interest at the

rate of 6% per annum for delay in payment of the salary. Learned Single Judge relied upon a decision of the Supreme Court reported at **2021(11) Supreme Court Cases 543 (State of Andhra Pradesh & Anr. Vs Dinavahi Lakshmi Kameswari)** for the award of quantum of interest at the rate of 6% per annum on the component of the delay in payment of salary.

15. Admittedly, salary was not paid on the due dates. There was delay in payment of the salary to the private respondent/respondent no.1. Consequently, right of the private respondent/respondent no.1 to receive compensation for the delay in receipt of the salary, by way of interest cannot be denied.

16. As noted above, the rate of interest awarded by the learned Single Judge cannot be said to be arbitrary, harsh or burdensome upon the appellant.

17. In such circumstances, we find no merit in the present appeal.

18. MAT 2123 of 2023 along with IA NO: CAN/2/2024 are disposed of accordingly, without any order as to costs.

19. Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

(Debangsu Basak, J.)

20. I agree.

(Md. Shabbar Rashidi, J.)