

01.07.2024
Item Nos.13-17,
20-30
gd/ssd

MAT/2179/2023
THE STATE OF WEST BENGAL AND ANR.
VS
OM PRAKASH SHAW AND ORS.
IA NO: CAN/1/2024, CAN/2/2024
with
MAT/2180/2023
THE STATE OF WEST BENGAL AND ANR.
VS
BITHIKA BISWAS AND ORS.
IA NO: CAN/1/2024, CAN/2/2024
with
MAT/2186/2023
THE STATE OF WEST BENGAL AND ANR.
VS
RANJIT DEY AND ORS.
IA NO: CAN/1/2024, CAN/2/2024
with
MAT/2196/2023
THE STATE OF WEST BENGAL AND ANR.
VS
BALARAM DAS AND ORS.
IA NO: CAN/1/2024, CAN/2/2024
with
MAT/2200/2023
THE STATE OF WEST BENGAL AND ANR.
VS
JANKI DEBI SHAW @JANKI DEVI AND ORS.
IA NO: CAN/1/2024, CAN/2/2024
with
MAT/2209/2023
THE STATE OF WEST BENGAL AND ANR.
VS
BADAMIA BASFORE @BADAMIYA BASFORE AND
ORS.
IA NO: CAN/1/2024, CAN/2/2024
with
MAT/2210/2023
THE STATE OF WEST BENGAL AND ANR.
VS
KONCHI ORAON AND ORS.
IA NO: CAN/1/2024, CAN/2/2024
with
MAT/2212/2023
THE STATE OF WEST BENGAL AND ANR.
VS
FAGU MINZ AND ORS.
IA NO: CAN/1/2024, CAN/2/2024
with

MAT/2213/2023
 THE STATE OF WEST BENGAL AND ANR.
 VS
 GOBINDA GOPAL SARKAR AND ORS.
 IA NO: CAN/1/2024, CAN/2/2024
with
 MAT/2218/2023
 THE STATE OF WEST BENGAL AND ANR.
 VS
 ETOWA ORAON AND ORS.
 S. ADAK /1/2024, CAN/2/2024
with
 MAT/2221/2023
 THE STATE OF WEST BENGAL AND ANR.
 VS
 CHANDRIKA YADAV AND ORS.
 IA NO: CAN/1/2024, CAN/2/2024
with
 MAT/2222/2023
 THE STATE OF WEST BENGAL AND ANR.
 VS
 IRA GHOSH AND ORS.
 IA NO: CAN/1/2024, CAN/2/2024
with
 MAT/2224/2023
 THE STATE OF WEST BENGAL AND ANR.
 VS
 CHANDA BASFORE AND ORS.
 IA NO: CAN/1/2024, CAN/2/2024
with
 MAT/2227/2023
 THE STATE OF WEST BENGAL AND ANR.
 VS
 DANDU ORAON AND ORS.
 IA NO: CAN/1/2024, CAN/2/2024
with
 MAT/2228/2023
 THE STATE OF WEST BENGAL AND ANR.
 VS
 JUTHIKA DEBNATH AND ORS.
 IA NO: CAN/1/2024, CAN/2/2024
with
 MAT/2230/2023
 THE STATE OF WEST BENGAL AND ANR.
 VS
 BINOD DAS AND ORS.
 IA NO: CAN/1/2024, CAN/2/2024

Mr. R. Guha Thakurta,
 Ms. S. Sengupta,
 Ms. Dipa Roy
 ..for the Respondents.

1. There is a delay in filing these appeals.

2. Considering the explanation offered and also the subsequent developments which have taken place after the impugned orders were passed, we exercise discretion and condone the delay, if any.

3. These intra court appeals are by the State of West Bengal represented by the Secretary, Department of Urban Development and Municipal Affairs, Kolkata and the Secretary, Finance Department, Government of West Bengal.

4. The appellants appear to be aggrieved by the penultimate portion of the impugned order passed in the writ petition filed by the respondents.

5. The observation made by the learned Single Bench is to the following fact:

“It will be open for the Municipality to seek financial assistance from the State respondents in the event the Municipality is not in a position to clear the entire dues of the petitioner.”

6. The respondent/writ petitioners had filed the writ petition praying for a direction upon the Municipality, namely, the Bhatpara Municipality for a direction upon them to disburse the gratuity due and

payable to the writ petitioners with interest for belated payment to be made within a specified time frame.

7. The learned Single Bench after considering the matters on merits held that the Municipality is bound to disburse the dues to the writ petitioners along with interest and accordingly directed the Municipality to immediately take steps for clearing the dues of the writ petitioners at the earliest but positively by 31st October, 2023 along with interest at the rate of 7% per annum payable on and from the due date till the date of actual payment. There were other conditions also imposed in the event the payment is not made within the time fixed.

8. It is not in dispute that the writ petitioners have received the gratuity amount along with the interest as directed by the learned Single Bench.

9. The State has preferred these appeals in the light of the observations made by the learned Single Bench to the effect that it will be open for the Municipality to seek financial assistance from the State in the event the Municipality is not in a position to clear the entire dues.

10. The State is justified in contending that in terms of Rule 31(1) of the West Bengal Municipal (Employee's Death-cum-Retirement Benefits) Rules, 2003 the pension shall be paid by the Municipality or Notified Area Authority from its own fund. That the

Municipality is empowered by law to function as self-Government and impose taxes as envisaged in the West Bengal Municipal Act, 1993 to generate their own funds. Further, in terms of Section 56(2) of the West Bengal Municipal Act, 1993, the Municipality may provide for pension, gratuity, provident fund, incentive, bonus, reward or penalty for its officers and employees in accordance with such rules, norms, scales and conditions as may be prescribed. Thus, the scheme of the Act appears not to put any unfettered obligation upon the State for payment of pension and gratuity to any retired employee of the Municipality. Further, the State has placed on record that as per the administrative arrangement, the State Government is granting fund for the purpose of payment of 40% of the pensionary amount and the rest 60% of the pensionary amount will have to be paid by the Municipality from their own funds and so far as gratuity is concerned, the Municipality have to bear the entire responsibility regarding payment thereof.

11. In such circumstances, it would not be appropriate to make any observations or issue any directions that the Municipality is to seek financial assistance from the State in the event they are not in a position to clear the entire dues as claimed by the writ petitioners. The powers and duties of the Municipality

have been clearly circumscribed under the provisions of the Act and the relevant Rules.

12. That apart, on facts the observation has become superfluous as on date in the light of the undisputed position that the gratuity payable to the writ petitioners have been paid by the Municipality together with the interest as ordered by the learned Single Bench.

13. Therefore, we are of the view that the aforementioned paragraph in the impugned order has to be deleted.

14. Accordingly, the appeals are allowed to that extent and the observation made by the learned Single Bench that it will be open for the Municipality to seek financial assistance from the State in the event the Municipality is not in a position to clear the entire dues of the petitioners stand set aside and deleted.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)