

09.07.2024
Sl. No.11
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 26941 of 2023
Aswini Kumar Sarkar
Vs.
The State of West Bengal & Ors.

Mr. Gobindadas Mitra
.....for the petitioner.
Mr. Niladri Bhattacharjee,
Ms. Deblina Chattaraj,
Ms. Priyanka Kundu,
Ms. Angana Dutta
.....for WBTCCL.

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 31st October, 2016. The petitioner was paid his retiral benefits on 1st February, 2017. The petitioner says that West Bengal Services (Revision of Pay and Allowances) Rules, 2019 (in short, ROPA, 2019) was implemented on 25th September, 2019 retrospectively with effect from 1st January, 2016. In view of which the scale of pay and other allowances which the petitioner was drawing on the date of his retirement had stood revised from 1st January, 2016. The petitioner, therefor, claims that he is entitled to the differential amount between the amount of retiral benefits computed on the basis of unrevised pay and

that on the basis of the revision with effect from 1st January, 2016.

Though on a conjoint reading on paragraphs 5 and 8 of the writ petition, it appears that the petitioner has received differential amount on account of gratuity at the time when his retiral benefits was paid on 1st February, 2017 but such statement cannot be a correct one as ROPA, 2019 was brought into effect on 25th September, 2019 from a retrospective date, i.e., 1st January, 2016. The revision which took place in 2019 could not have been given effect to in 2017 when the retiral benefits were paid.

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 by giving liberty to the petitioner to file afresh on the self-same cause of action, the matter is relegated to the Managing Director, WBTCL, being the respondent no.3 in this writ petition.

The respondent no.3 shall consider the case of differential amount, if any receivable by the petitioner and interest for delay in making such payment, 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.3 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.3 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.3, 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.)

