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23.09.2024
d.p.

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

W.P.A. 2029 of 2024

Subir Kumar Mukherjee @ Subir Mukharjee
-versus
The State of West Bengal & Ors.

Mr. Nabakumar Paul,
Ms. Sutapa Sen Paul,
Mr. Abhishek Sarkar,
Mr. Bodhisatya Ghosh.
...For the Petitioner.

Mr. Momenur Rahman,
Ms. Patralekha Choudhury.
...For the State.

Affidavit-of-service filed in Court today is taken on record.

The petitioner is a retired employee of Himalayan Cooperative Milk Producer's Union Limited. He retired on attaining his normal age of superannuation on 31st August, 2016. His grievance is that the gratuity amount was paid to him in April 2018. He claims interest on delayed payment of gratuity.

I have heard learned counsel for the parties and considered the orders passed by this court in similar facts.

It is settled law that the right of a retired employee to get his retiral dues on the date of attaining superannuation is a valuable right which accrues in his favour on the date of his attaining superannuation.

Further, gratuity and pension are no more considered to be a bounty to be handed out by the State at its whim. An employee has a statutory right to receive gratuity and pension upon retirement. If payment of such gratuity and pension is delayed the retired employee is surely entitled to get some interest for such delayed payment.

In the present case, it was the bounden duty of the State to disburse the gratuity amount on the due date. If it has failed to do so and has released such amount after unexplained delay, it is obliged to pay interest to the retired employee. Gratuity is welfare provisions aimed at maintaining the life of a retired employee and his/her dependents. This is compensatory in nature.

In view of the aforesaid, I direct the concerned Treasury Officer to pay interest to the writ petitioner at the rate of 7% per annum on the gratuity calculated on and from the due date till the date of actual payment, **provided the delay caused was not attributable to the petitioner.**

If the aforesaid amount is not disbursed within a period of eight weeks from the date of communication of this order, the concerned authority will be bound to pay to the employee additional interest of 2% p.a. i.e. 7+2=9% p.a. on account of delayed payment of gratuity to be calculated on and from the due date till the date of actual payment.

The Treasury Officer shall not be obliged to pay interest if the delay was caused on account of any lapse on the part of the employee.

The concerned respondent authority is directed to take appropriate steps in accordance with law against the erring officer(s) for whose fault there has been delay in releasing the retirement benefit to the petitioner.

Since no affidavit in opposition has been invited, the allegations contained in the writ petition are deemed not be admitted.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)