

ORDER SHEET

WPO/1244/2022
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

PHANI BHUSAN CHAKRABORTY
VS
UNION OF INDIA AND ORS

BEFORE:
The Hon'ble JUSTICE RAI CHATTOPADHYAY
Date: 17th May, 2024.

Mr. Debdutta Basu, Adv.
...for the petitioner

Ms. Deblina Chattaraj, Adv.
Ms. Angana Dutta, Adv.
...for the respondents Corporation

The Court: The writ petitioner, an erstwhile employee of the respondent no. 2/West Bengal Transport Corporation Ltd. was held guilty in a criminal trial and sentenced accordingly vide order of the Court dated August 28, 2003. Pursuant to the same he was dismissed from service vide order of the General Manager of the said Corporation, dated November 15, 2003. On May 4, 2021, the respondent No. 2/Corporation has released an amount of Rs. 1, 66, 934.05/- towards the writ petitioner on account of his Provident Fund dues.

Prior to the same, the order of conviction and sentence of the trial Court was challenged by the writ petitioner in an appeal, being CRA 418 of 2003, which is still pending.

On these circumstances, the writ petitioner has come up before this Court to pray for the relief that interests upon the said Provident Fund amount be paid to him with effect from April 2004 to May 3, 2021; that the amount of gratuity be paid

to him and also that the amount as stands outstanding on account of encashment of leave be also paid immediately.

In spite of specific direction of the Court, no affidavit-in-opposition has been filed by any of the respondents.

Today Ms. Angana Dutta appears for the respondent authority through video conference and submits about not receiving any specific instructions from the said authority with respect to the present case. Noted.

Mr. Basu is representing the writ petitioner. He has taken this Court through the various annexures of the writ petition. He says that the gratuity amount, the leave encashment amount as well as interests for the period as mentioned above, on the Provident Fund amount, would be the lawful claim of the writ petitioner from the respondent Corporation, which cannot be withheld by it on any pretext whatsoever. He seeks an appropriate order for release of above dues payable to the writ petitioner.

The fact revealed is that the writ petitioner has been convicted on August 28, 2003, in Special Case No. 1 of 2002, that is, under Sections 409 and 120B of the Indian Penal Code. According to the same the petitioner along with others have defalcated a sum of Rs. 8, 37, 000/-.

An appeal has been preferred against the said judgment of the conviction and sentence passed by the Special Court in Special Case No. 1 of 2002. The same is now pending. During pendency of the same an amount of Rs. 1,66,934.05/- has been released on account of Provident Fund dues to the writ petitioner. The writ petitioner claims interests over there and also the amount of gratuity and leave encashment, as stands outstanding pursuant to his service rendered to the respondent No.2/Corporation till the date of his dismissal from service.

The writ petitioner shall be eligible for payment of the claim for which he has prayed for in this writ petition, in fortification of his statutory as well as constitutional rights, until the employer can disallow the same for any cogent and sufficient reason. In this case, till date however, the employer has not come up with any affidavit-in-opposition or even with any instruction to the learned conducting advocates, to justify as to why during suspension of his conviction and sentence in the appeal, he shall not be entitled to such statutory and legal dues. This stimulates force in the claim of the writ petitioner as made in this writ petition. Hence, the same is to be allowed.

The writ petition being WPO 1244 of 2022 is allowed. The respondent No. 2/Corporation is directed to release immediately the interests over the Provident Fund amount as paid to the writ petitioner, with effect from the date of suspension of the order of conviction of the writ petitioner till the date of actual payment at the rate of interest of a savings account in a Public Sector Bank. The respondent No. 2/Corporation shall also pay the amount of gratuity as allowable to the writ petitioner and that of encashment of leave allowable to him.

The respondent No.2/Corporation shall comply with the instant order within the period of four weeks from the date of this order.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon compliance of requisite formalities.

(RAI CHATTOPADHYAY, J.)