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ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/1837/2023
LALMATI DEVI
VS
THE STATE OF WEST BENGAL AND ORS

BEFORE:

The Hon'ble JUSTICE RAJASEKHAR MANTHA

Date : 2nd January, 2024.

Appearance :
Mr. Debdutta Basu, Adv.
... for the petitioner.
Ms. Deblina Chattaraj, Adv.
Ms. Angana Dutta, Adv.
... for the respondent.

The Court: 1. Affidavit of service filed in Court today is taken on record.

2. The husband of the writ petitioner was a permanent employee of West Bengal Transport Corporation Limited (WBTCL), formerly known as The Calcutta Tramways Company (1978) Ltd.

3. The husband of the writ petitioner died on 14.05.2021. The retiral dues to the tune of Rs.33,71,758/- were paid on January 13, 2022. The petitioner prays for interest on the delayed payment of the retiral dues.

4. The issue of payment of interest on delayed payment of retiral benefits has been considered by the Hon'ble Supreme Court in two judgments reported in 2021 (11) SCC 543 (State of Andhra Pradesh & Anr. Vs. Dinavahi Lakshmi Kameswari) and also in 2022 (4) SCC 627 (Dr. A.Selvaraj vs. CBM College & Ors.). In Selvaraj (supra) it was held that the delay in payment of retiral benefits was due to no fault on

the part of the petitioner. It was an obligation on the part of the employer to process the retiral benefits and pay the same within one month of the date of the petitioner's retirement. Since the payment was not made within one month, the interest was held to date back to the petitioner's date of retirement.

5. The petitioner is entitled to claim such interest. Due to the assurance made by the employer/State, the claim of the petitioner has attained a statutory colour. A beneficial reference may be made to an order/judgment passed by the Hon'ble Division Bench in F.M.A. 3942 of 2016 (Amarnath Tiwari & Ors. Vs. State of West Bengal & Ors.). This Court is of the view that the laws of limitation are not applicable in exercise of jurisdiction under Article 226 of the Constitution of India relying on a judgment passed by the Apex Court reported in 2022 Live Law (SC) 785 (State of Rajasthan & Ors. Vs. O.P. Gupta). It has also been held in the said decision that the Court cannot be oblivious to the difficulties of a retired employee in approaching the Court, which could include financial constraints.

6. Accordingly, this Court directs interest at the rate of 6% per annum to be paid to the petitioner from 15.05.2021 (being the date subsequent to the date death) till 13.01.2022 (the date on which the actual payments were made).

7. Such payment of interest on the delayed payment of retiral dues shall be paid within three months from date. In the event of default, the rate shall stand increased to 8% per annum. 8. In that view of the matter, nothing further remains to be adjudicated in the writ petition.

9. The WPO/1837/2023 stands disposed of.

(RAJASEKHAR MANTHA, J.)

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