

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

IA GA 1 of 2022
IA GA 2 of 2023
APOT No. 243 of 2022
WEST BENGAL TRANSPORT CORPORATION LTD. AND ORS.
Versus
PRAVAKAR GHOSH AND ORS.

OCOT 1 of 2023
PRAVAKAR GHOSH
Versus
THE STATE OF WEST BENGAL AND ORS.

BEFORE:
The Hon'ble JUSTICE SOUMEN SEN
The Hon'ble JUSTICE UDAY KUMAR
Date : 14th May, 2024.

Ms. Deblina Chattaraj led by
Mr. Niladri Bhattacharjee, Adv.
Ms. Angana Dutta, Adv.
...For the Appellant
Mr. Debduitta Basu, Adv.
...For the Respondent
Mr. Santanu Kumar Mitra, Adv.
Mr. Subhabrata Das, Adv.
...for the State

The Court : The appeal and the cross-objection are taken up
together and disposed of by a common order.

The appeal arising out of an order passed by the learned
Single Judge directing the payment of interest at the rate of 6% per

annum from 25th September, 2019 when the West Bengal Services (Revision of Pay and Allowance) Rules, 2019 was sought to be promulgated in the State of West Bengal by the Finance Department till 12th March, 2021. In default the rate of interest will stand increased to 10% per annum being the rate payable at present under the Payment of Gratuity Act, 1972 for delay in disbursement of gratuity.

We have heard the learned counsel for the parties.

The West Bengal Transport Corporation Limited is an undertaking of the State Government. The State Government acting through its Transport Department by Memorandum dated 22nd January, 2020 directed the appellant Corporation to implement ROPA 2019. In the said Memorandum under the heading “Retirement Benefits” it has been inter alia provided that all the employees who retired or died during the period from 1st January, 2016 to 31st December, 2019, the Retiring/Death Gratuity would be allowed on the revised pay as a special case. It also provides that for the employees who are presently covered under CPF-Gratuity-cum-EPF (pension) Scheme, the existing ceiling limit on gratuity would be enhanced to Rs. 12 lakh with effect from 1st January, 2016.

The principal challenge in the writ petition is interest for delayed payment of differential amount of gratuity pursuant to ROPA

2019. The writ petitioner has prayed for disbursement of interest at the rate of 12% per annum from 1st February, 2017 (from the date of his retirement) to March 12, 2021 (the date of actual payment) for delayed payment of differential amount of gratuity pursuant to the introduction of ROPA 2019. The learned Single Judge did not allow the claim in totality but restricted it from 25th September, 2019 when ROPA 2019 was introduced in the State of West Bengal by the Finance Department.

The memorandum issued by the Transport Department dated 22nd January, 2020 has clearly stated that differential payment would be extended as a special case for the employees who retired or died during the period from 1st January, 2016 to 31st December, 2019. The right to receive differential amount of gratuity in favour of the employees who have retired during the period emanates from the Memorandum dated 22nd January, 2020 and it was extended as a special case. The writ petitioner did not allege that although ROPA 2019 was introduced earlier he did not receive the benefits of ROPA 2019 as he realized that unless it is adopted by the appellant he would not be entitled to such benefit. The Transport Department by the aforesaid memorandum has decided to extend such benefit which the Corporation adopted on or after 22nd January, 2020 and thereby the obligation of the Corporation to pay the

amount towards gratuity would commence from the date of the memorandum dated 22nd January, 2020.

In view of the aforesaid, we modify the order of the learned Single Judge by directing the Corporation to pay interest on the differential amount from February, 2020 till the date of actual payment i.e. 12th March, 2021 at the rate of 6% per annum within a period of four weeks from date. In default, the rate of interest shall stand increased to 10% per annum as directed by the learned Single Judge.

The appeal and the cross-objection and all the applications are accordingly disposed of. However, there shall be no order as to costs.

Affidavits filed in Court are taken on record.

(SOUMEN SEN, J.)

(UDAY KUMAR, J.)

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