06 **01.05.2025**

Ct. No. 07

Ab

WPA 4091 of 2021

Sri Dilip Kumar Ganguly
Vs.
Banagiya Gramin Vikash Bank and others.

Mr. Subhas Chandra Atha,
Ms. Payel Paramanik.
... for the writ petitioner.

Mr. Baidurya Ghosal,
Mr. Sourav Mukherjee,
Mr. Saikat Mukherjee,
Ms Anupama Biswas.
... for the respondent nos. 1 to 4.

This writ petition is filed seeking directions to the concerned respondent to release the petitioner's monthly pension, which has allegedly been withheld by the respondent with effect from December 2020.

The petitioner initially joined Mallabhum Gramin Bank as a Junior Clerk in 1977. Subsequently, five Gramin Banks were amalgamated and began operating under the name and style of 'Bangiya Gramin Vikash Bank'. In 1980, the petitioner was promoted to the post of Senior Clerk-cum-Cashier. Thereafter, the Bank took a policy decision to abolish the post of Senior Clerk-cum-Cashier and, pursuant to such decision, 70 employees holding that post were upgraded to the position of Field Supervisor. However, the petitioner was excluded from this upgradation without any justification.

The petitioner retired from service on 31st May 2018 upon attaining the age of superannuation. It is noted that the petitioner had a history of habitual absenteeism, having remained absent for a total of 1101 days on 65 occasions between 2002 and the date of his retirement. Despite this, no disciplinary proceedings were ever initiated against him on the ground of unauthorized absence, and he was permitted to retire in the normal course. Subsequently, pension was also released in his favour. However, with effect from 1st December 2020, the Trustee of the Bangiya Gramin Vikash Bank (Employees') Pension Fund Trust withheld payment of his pension, till the receipt of certain documents/sanction letter of his unauthorized absence for a total period of 1101 days. These incidents have prompted the petitioner to file the present writ petition.

Mr. Atha, learned advocate for the petitioner, drawing attention to the Pension Payment Order, submits that the petitioner rendered a total service of 40 years, 10 months, and 31 days. Out of this, a period of 3 years, 7 months, and 90 days, representing his unauthorized absence, was excluded from the computation of qualifying service. Consequently, the remaining period of 37 years and 3 months was considered for determining the qualifying service for the purpose of pension, and the quantum of pension was accordingly fixed. It is further submitted that once the petitioner retired from service and his pension was sanctioned, the respondent cannot subsequently raise the issue of unauthorized absence as a ground to withhold payment of his pension.

Mr. Ghoshal, learned advocate appearing on behalf of respondent nos. 1 to 4, submits that the petitioner failed to produce any document to establish that his period of absence was regularized or that any leave had been duly sanctioned in his favour. Consequently, the pension was withheld with effect from the month of December 2020.

Heard the learned advocates for the respective parties and perused the material on record.

Admittedly, the petitioner remained absent for a total period of 1101 days on 65 occasions during his tenure of service. No document has been placed on record to demonstrate that the said period of absence was either regularized or that any leave had been sanctioned in his favour. Nevertheless, the petitioner was allowed to retire in the normal course. As noted earlier, no disciplinary proceeding was ever initiated against him in connection with the said unauthorized absence.

The Pension Payment Order indicates that, after deducting the period of unauthorized absence, the remaining period of service was taken into account for determining the petitioner's qualifying service for pension, and the quantum of pension was accordingly calculated and released in his favour. However, in December 2020, the respondents subsequently withheld the said pension.

The Bank was afforded an opportunity to produce any rule, regulation, or statutory provision that empowers it to withhold the pension of a retired employee, particularly when the master-servant relationship no longer exists. However, the Bank failed to produce any such document justifying its action.

Needless to mention that upon the petitioner's retirement from service, the master-servant relationship ceased to exist, and any punitive action against a retired employee is permissible only within a limited scope and subject to the fulfillment of certain prescribed conditions. The present situation does not appear to fulfill any of those prescribed conditions.

Having heard the learned advocates for the respective parties and upon careful perusal of the materials on record, I find no justification for the action of the respondents in withholding the petitioner's pension since December 2020.

Accordingly, the writ petition is disposed of by directing the respondent no. 3 to release the petitioner's monthly pension including all its arrears within eight weeks from the date of receipt of the copy of this order.

There shall, however, be no order as to costs.

(Partha Sarathi Chatterjee, J.)