

11.03.2025

Item no.DL/5
Court No. 23

Asraf, A.R.(Ct.)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Case No. **WPA 6491 of 2024**

HIRALAL DAS

....Writ Petitioner

VS.

STATE OF WEST BENGAL & ORS.

....Respondents

For the Writ Petitioner :

Ms. Susmita Dey (Basu)

....Advocate

For the CSTC :

Mr. Amal Kumar Sen

Mr. Sabyasachi Mondal

....Advocates

The petitioner was an employee of Calcutta State Transport Corporation (in short, "CSTC"). The petitioner filed a writ petition being WPA 14335 of 2023 for payment of post retiral dues and benefits. The writ petition was disposed of by an order dated 19th February, 2024. The operative portion of the said order dated 19th February, 2024 is set out hereunder :-

“Report filed on behalf of the respondent authorities be kept with the records.

This is an application seeking post-retirement dues and benefits.

Both parties submit that after filing of the writ petition, the petitioner has been paid the entire outstanding dues on account of post-

retirement benefits and all other outstanding dues.

In this background, the petitioner submits that save and except the interest component on delayed payment, there is no other amount due and payable by respondent authorities.

The respondent authorities are present and do not oppose the submissions made on behalf of the petitioner.

It is an admitted fact that the total dues paid to the petitioner on account of post-retirement benefits are approximately Rs.40,00,000/-.

*In such circumstances, **WPA 14335 of 2023** stands **disposed of** by directing the respondent authorities to pay a consolidated amount of Rs.75,000/- (seventy five thousand only) to the petitioner on account of interest on delayed payment.*

The aforesaid amount should be paid within four weeks from the date of communication of this order.”

In this writ petition the petitioner has stated the following :-

“6. That your petitioner states that upon retirement only an amount of Rs.9,43,000/- was credited to his bank account on 19.02.2023 without any break up by the respondent Corporation.

7. That your petitioner states that he preferred a writ petition being WPA No. 14335 of 2023 before the Hon'ble High Court at Calcutta.

8. That your petitioner states that during the pendency of the writ petition, he was paid an amount of Rs. 10,83,164/- on 13.07.2023 on account of Gratuity an amount of Rs. 1,78,559/- was credited in his Bank Account on account of leave salary deducting an amount of Rs.1,87,825/- on 13.07.2023 and balance Provident Fund to the tune of Rs.28,29,684/- was paid to him on 05.08.2023.

9. That your petitioner states that in paragraph 6 of the report filed on behalf of the respondent nos. 3, 4 and 5 in connection with WPA No. 14335 of 2023 before the Hon'ble High Court at Calcutta, the respondents disclosed that though the petitioner was entitled to a total sum of Rs.3,66,384/- towards the leave salary but a sum of Rs. 1,87,825/- has been deducted from the said retirement benefit as adjustment against over payment or excess payment made by the Corporation to him during the tenure of his service.

Xerox copy of the report filed in connection with WPA No. 14335 of 2023 is made Annexure P-2 to this writ petition.

10. That your petitioner states that it is most unfortunate that that he was never intimated

either during his service life or immediately after his retirement that an amount of Rs. 1,87,825/- was found to be overdrawn by your petitioner which is to be adjusted against his terminal benefit. The said writ petition was ultimately disposed of on 19.02.2024 by granting consolidated interest of Rs.75,000/- for delayed payment. Xerox servers copy of the order dated 19.02.2024 is made Annexure "P-3" to this writ petition."

The petitioner now alleges that CSTC has unilaterally decided to recover a sum of Rs.1,87,825/- out of the total sum of Rs.3,66,384/- payable on account of leave salary. Admittedly, leave salary is part of the retiral benefits. The issue of deduction of Rs.1,87,825/- from the total amount of leave salary of Rs.3,66,384/- was before the Court at the time of hearing of the previous writ petition being WPA 14335 of 2023.

As will appear from the order dated 19.02.2024 by which WPA 14335 of 2023 was disposed of that the Court did not reserve the petitioner's right to claim the deduction alleged to have been made from the leave salary in a subsequent writ petition.

An issue which was before the Court with the prayer for payment of the retiral benefits to the petitioner on having been disposed of by the order dated 19th February, 2024 leaves no amount of doubt

that this prayer as to alleged unlawful deduction from leave salary was considered but no relief was granted in respect thereof. The obvious conclusion is that the prayer now made in the instant writ petition was considered and refused by the Court in the earlier writ petition. The present writ petition, is, therefor, barred under the principles of constructive res-judicata as held in judgment delivered by the Hon'ble Supreme Court which is reported in **2014 (11) SCC 744 (*Shiv Chander More & Ors. Vs. Lieutenant Governor & Ors.*)**

In the aforesaid facts and circumstances, the instant writ petition is **dismissed**, however, without any order as to costs.

The parties are directed to act on the basis of server copy of this order duly downloaded from the official website of this Hon'ble High Court without insisting upon production of a certified copy thereof.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Arindam Mukherjee, J.)