

28.07.2025
Sl. No. 10
Ct No. 3
SG

WPA 16008 of 2024

**Mina Hazra
Vs
The State of West Bengal & Ors.**

Sk. Kiran.

... for the petitioner

Mr. Sayantan Hazra.

...for Municipality

1. Affidavit-in-opposition filed by respondent nos. 5 to 9 and affidavit-in-reply filed by the petitioner are taken on record.

2. The petitioner has preferred the present writ petition being aggrieved by the non-payment of retiral benefits by the respondents, despite lapse of seven years since her retirement.

3. The case of the petitioner is that she had rendered 29 years of qualifying service with the respondent-Municipality in the post of Group-D (Conservancy Menial) in Murshidabad Municipality and retired from her service on attaining superannuation on 30.06.2018. Subsequently, E-Pension Payment order dated 09.08.2019 was issued under the Revised Order of Pay and Allowance (ROPA 2009), reflecting the net and gross gratuity payable to the petitioner as Rs.3,54,916/-. However, till date the petitioner has only received Rs.1,75,000/- towards

gratuity. Additionally, the petitioner has not been paid the pension arrears from 31.07.2018 to 31.08.2018, nor has she received the gratuity as per ROPA 2019, owing to the issuance of the revised PPO.

4. Learned Counsel for the respondent has filed affidavit-in-opposition wherein the respondent authorities admit that a sum of Rs.1,75,000/- has been paid and the balance amount of Rs.3,16,850/- shall be disbursed by the respondent within a period of five months. However, the respondent-Municipality, while acknowledging the liability, has expressed its inability to release the said amount on the purported ground of acute financial constraints.

5. This Court has heard the learned counsels for the parties and carefully perused the materials placed on record.

6. The explanation offered by the respondent-municipality is found to be wholly unsatisfactory. The defence of financial hardship cannot be allowed to override the statutory and constitutional obligation to disburse retiral benefits to a retired employee who has rendered nearly three decades of unblemished service. It is a well-settled principle of law that pension and other retiral benefits are not acts of generosity or ex-gratia payments, but constitute vested rights accruing to an employee as an integral component of

the terms and conditions of their service. Non-payment of such dues constitutes violation of fundamental rights of the petitioner under Article 21 of the Constitution of India, which guarantees the right to life with dignity. The Hon'ble Supreme Court in catena of decisions has categorically held that delay in payment of pension and gratuity is wholly impermissible and must entail consequences, including payment of interest. It is further observed that mere classification of a municipality in a lower financial category cannot be served as a legitimate justification to abdicate legally enforceable liabilities, especially those arising out of retiral benefits which are intended to ensure social and economic security to government servants post superannuation. Acceptance of such a defence would set a dangerous precedent, undermining the very purpose of retiral benefits and eroding the constitutional safeguards available to the retired employees.

7. In view of the above, the municipality is directed to release the outstanding retiral dues of Rs.3,16,850/- to the petitioner positively within a period of eight weeks from the date of receipt of the server copy of this order.

8. It is made clear that in the event the respondent-municipality fails to release the aforesaid amount within the stipulated time, the outstanding

dues shall carry a simple interest at the rate of 6% per annum to be computed from the date on which each component of the retiral dues became due and payable, till the date of actual disbursement.

9. The respondent-municipality is also directed to take appropriate steps for issuance of the revised PPO in accordance with ROPA 2019, if not already issued, and release any additional amount found payable as per the revised entitlement, within a period of eight weeks thereafter.

10. With the above direction, the present writ petition is disposed of.

11. There shall be no order as to costs.

12. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Gaurang Kanth, J.)