IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

RESERVED ON: 29.07.2025
DELIVERED ON: 12.08.2025

PRESENT:
THE HON'BLE MR. JUSTICE GAURANG KANTH

WPA 23015 OF 2024

KARTICK CHANDRA DAS

VERSUS

THE STATE OF WEST BENGAL & ORS.

Appearance:-

Mr. Tulshidas Ray, Adv.
Mr. Tirthankar Roy, Adv.

......................For the Petitioner

Mr. Parashar Baidya, Adv.

..................For Respondent No. 5

Mr. Munmun Ganguly, Adv.
Mr. Subhayu Das, Adv.

......................For the State.

JUDGMENT

Gaurang Kanth, J. :-

1. The Petitioner has preferred the present writ petition seeking appropriate directions against the Respondents for the release of outstanding retiral dues, arrears of pension, and regular month-to-month pension payments.

2. The facts, as borne out from the present writ petition, are set out below:

3. The Petitioner was appointed as an Assistant Mistry in the pay scale of Rs.2600–4175/- by Respondent No. 4, *Taherpur Notified Area Authority*, pursuant to an appointment letter dated 06.08.2007. He joined the said post on 07.08.2007. After rendering unblemished service for more than two decades, the Petitioner retired from service on 31.07.2021. A Pension Payment Order was issued in his favour on 11.02.2022.

4. The Petitioner became entitled to receive pension with effect from 01.08.2022. However, the Respondent Authority failed to disburse regular pension from 01.08.2022 to 31.08.2024. The total pension payable for this period was Rs. 4,09,934/-. Out of the said amount, the Respondents subsequently paid Rs. 2,32,428/-, leaving an outstanding balance of Rs. 1,77,506/- as on 31.08.2024.

5. With respect to the gratuity amount, a total sum of Rs.2,06,489/- was payable. From this, the Respondents paid Rs. 1,56,489/-. Therefore, an amount of Rs.50,000/- remains outstanding towards gratuity.

6. As of the date of filing this petition, a total sum of Rs.2,27,506/- remains outstanding, comprising arrears of pension and gratuity.

7. The Petitioner submitted a representation dated 08.07.2024 requesting the release of the aforementioned outstanding amounts as well as for the commencement of regular month-to-month pension disbursement. However, the said representation has elicited no response from the Respondent Authority. Being aggrieved by such inaction, the Petitioner has been constrained to file the present writ petition.

Submission on behalf of the Petitioner

8. Learned Counsel for the Petitioner submits that the Petitioner retired from service on 31.07.2021 after rendering unblemished service for a period of 13 years, 11 month, and 24 days. A Pension Payment Order has already been issued in his favour. However, despite the lapse of more than four years since retirement, the Respondent Authority has failed to clear the outstanding retiral dues of the Petitioner. Moreover, the Respondents have also failed to ensure the regular disbursement of the Petitioner's monthly pension, thereby subjecting him to undue financial hardship. It is submitted that the Petitioner, being a superannuated employee, is compelled to approach various authorities repeatedly to meet even his basic daily needs.

9. In light of the above, the Petitioner prays for a direction upon the Respondents to forthwith release all outstanding retiral dues and ensure the timely disbursement of monthly pension henceforth.

Submission on behalf of the Respondent Nos. 4-5 (Taherpur Notified area Authority)

10. Respondent No. 5, the Chairman of the Taherpur Notified Area Authority, has filed a report in the present proceedings. In the said report, it is stated that the admitted amount of gratuity payable to the Petitioner has already been disbursed. However, a portion of the pension remains in arrears, which the Respondent attributes to the severe financial constraints currently being faced by the Authority.

11. It is the contention of the Chairman of Respondent No. 5 that the Taherpur Notified Area Authority governs a relatively small jurisdiction, and its principal sources of revenue comprise property tax, mutation fees, trade license fees, building plan sanction fees, rent from ceremonial halls and guest houses, income from picnic gardens, and ticket sales. However, the revenue generated from these sources is meagre and falls significantly short of the amount required to meet the Authority's financial obligations, including payment of retiral dues to the Petitioner and similarly situated retired employees.

12. The Respondent further states that while the State Government contributes 40% of the annual pension liability, the remaining 60% is required to be met by the Respondent Authority from its own resources. Due to the acute financial shortfall, the Respondent Authority is unable to generate sufficient funds to meet this obligation and, as a result, is not in a position to disburse the monthly pension to the Petitioner and other retired employees.

13. It has further been submitted that the aforesaid financial distress was brought to the notice of the State Government by way of a communication dated 07.05.2025, seeking necessary financial assistance.

14. The Respondent has expressed its inability to comply with its financial obligations and has categorically stated that unless a special financial package, grant, or bailout fund is sanctioned by the State Government, the Respondent Authority would remain incapable of mobilizing the necessary resources to clear the arrears of pension and meet its ongoing pension liabilities.

<u>Submission on behalf of the Respondent No. 3 (Director, Local Bodies)</u>

15. It is submitted on behalf of the Director of Local Bodies that the Municipality is the competent authority for sanctioning pension and is solely responsible for disbursing pension and other retiral benefits to its retired employees. The State Government provides grant-in-aid to the Urban Local Bodies (ULBs) to the extent of 40% of the total pension liability. In the present case, it is stated that the aforesaid 40% share of the grant-in-aid has already been released by the State Government to the Respondent Authority.

<u>Legal Analysis</u>

16. This Court has heard the submissions advanced by the learned counsel for the respective parties and has carefully perused the materials placed on record.

17. The present matter reveals a deeply regrettable state of affairs. Respondent No. 5, the Chairman of the Taherpur Notified Area Authority, has filed an affidavit candidly admitting the Authority's inability to discharge its statutory obligation to pay pension to its retired employees. It is stated that by communication dated 07.05.2025, the Authority informed the State Government that without additional financial assistance, it is incapable of clearing the outstanding pension dues. While no affidavit has been filed by the State of West Bengal, a reply has been submitted on behalf of the Director of Local Bodies, wherein it has been contended that the Municipality is the competent authority for sanctioning pension and is solely responsible for disbursing the same. It is further stated that the State Government provides 40% of the annual pension liability as grant-in-aid, and that the said amount has already been disbursed for the relevant period.

18. The Taherpur Notified Area Authority was constituted in June 1993 pursuant to a long-standing demand of the local residents, with the expectation that a dedicated municipal structure would foster development and generate adequate revenue for self-sustenance. However, even after more than three decades, the Authority has failed to achieve financial independence. No concrete measures appear to have been taken by the competent authorities to develop sustainable revenue sources. This systemic failure defeats the very purpose of decentralised governance and the constitutional vision of empowering local self-government institutions. It is wholly unacceptable that the Chairman of the Authority should express helplessness before this Court in disbursing pension dues to retired employees. It is the fundamental obligation of every local authority to strive towards financial sustainability and to ensure the effective governance of the area under its jurisdiction. The lack of initiative and apparent inaction on the part of the political and administrative leadership in this regard is both disturbing and disappointing.

19. Although the Respondent Authority has brought its financial distress to the notice of the State Government through its letter dated 07.05.2025, no material has been placed on record to indicate that the State Government has taken any concrete decision or remedial steps in response to such representation. This Court is of the view that it is incumbent upon the State Government to conduct a comprehensive financial audit of the Respondent Authority and to take an appropriate decision on the said representation within a time-bound manner.

20. That being said, it is not within the province of this Court to advise either the State Government or the Respondent Authority on matters of revenue generation or administrative policy. The limited scope of this Court's intervention is to ensure that statutory and constitutional obligations relating to the payment of pension and retiral benefits are complied with in letter and spirit.

21. It is now well settled that pension and other retiral benefits are not ex-gratia payments or acts of benevolence by the employer. They constitute a legal and constitutional entitlement earned by an employee after years of dedicated and faithful service. The Hon’ble Supreme Court, in a catena of judgments, has held that pension is not a bounty to be granted at the discretion of the employer, but a deferred portion of compensation for past service, acquiring the character of a vested right governed by service rules. It has also been unequivocally held that pension constitutes “deferred wages” and is an essential facet of the right to life and dignity under Article 21 of the Constitution.

22. Financial hardship cannot be cited as a defence for non-payment or delayed payment of pensionary dues. Such a plea is legally untenable and constitutionally impermissible. The inability of the Respondent Authority to discharge its financial obligations towards retired employees, including the Petitioner, on the ground of lack of funds, is in direct violation of statutory service rules and offends Articles 14 and 21 of the Constitution of India. The State and its instrumentalities cannot abdicate their constitutional and statutory responsibilities by citing fiscal constraints. Retiral dues must be treated as an enforceable legal obligation, not as a matter of administrative discretion.

23. In view of the above discussion, the writ petition stands allowed. Respondent No. 4 is directed to release the outstanding pension and other retiral dues of the Petitioner within a period of 12 weeks from the date of pronouncement of this order. Respondent No. 4 is further directed to ensure the regular and timely disbursement of monthly pension to the Petitioner and all other similarly situated retired employees without further delay.

24. Before parting with the matter, this Court deems it necessary to remind all concerned authorities, including the local body and the State Government, of their binding statutory and constitutional responsibilities. The governance of a notified area or municipality cannot be reduced to a blame-shifting exercise between institutions. The constitutional vision, particularly as enshrined in Parts IX and IX-A of the Constitution, envisages a cooperative, coordinated, and empowered structure of governance at the local level, aimed at promoting decentralisation, development, and participatory democracy. The persistent failure of the Respondent Authority to attain financial self-sufficiency, despite being in existence for over three decades, is not merely an administrative shortcoming, it is a serious dereliction of public duty and a betrayal of the public trust. It strikes at the heart of the vision of Gram Swaraj and Panchayati Raj envisioned by the Father of the Nation, Mahatma Gandhi. Governance must be responsive, transparent, and accountable; it cannot function on inertia, indifference, or abdication of constitutional mandates.

25. With the aforesaid directions and observations, the present writ petition is allowed. There shall be no order as to costs.

26. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Gaurang Kanth, J.)

SAKIL AMED (P.A)