

06.02.2025
sayandeep
Sl. No. 90
Ct. No. 08

FMA 39 of 2025
With
CAN 1 of 2024

Oramba Ghosh & ors.
Vs.
The State of West Bengal & ors.

Mr. N. G. Mukherjee
... for the appellants
Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee
.... for the State

The writ petition filed by the appellants, claiming interest on the delayed payment of the gratuity and other retiral benefits, stood dismissed by the single Bench on the score that in an earlier writ petition a direction was sought upon the authority to pay the gratuity and the other retiral benefits, without praying for interest over the delayed payment and, therefore, is precluded from claiming the same by instituting a subsequent proceeding. Though there is no reference of the provisions contained in the Code of Civil Procedure in the impugned order but the tenet thereof is suggestive of the fact that the Court was considering the embargo created under Order 2 Rule 2 of the Code of Civil Procedure.

There was no fetter on the part of the appellants while claiming the payment of the full amount of gratuity and the other benefits to be paid along with an interest but having not incorporated specific prayer for grant of the interest, it attracts the provisions by Order 2 Rule 2 of the Code of Civil Procedure. By virtue of Rule 53 of the Rules relating to an application under Article 226 of the Constitution of India as framed by this High Court, the provisions of the Code of Civil Procedure is applicable to a writ proceeding as far as

practicable and, therefore, the principles emanating therefrom applies to the writ proceedings as well.

Since there is no prayer for grant of interest on the full amount of gratuity and other retiral benefits in an earlier writ petition, there is no infirmity in the order of the single Bench in dismissing the writ petition on such score.

The appeal is devoid of merit and the same is hereby dismissed without any order as to costs.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)