

11.06.2025
Sl. No.21
akd

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI

W. P. A. 1188 of 2025

[Subhash Ray -Vs- The State of West Bengal & Ors.]

Mr. Nabankur Pal
Ms. Sutapa Sen Pal
Mr. Bodhisatya Ghosh
... .. for the petitioner

Mr. Momenur Rahman
Mr. Kumar Shantanu
... .. for the State

1. Affidavit-of-service filed in court today is taken on record.
2. The petitioner was initially appointed as a Supervisor in Himalayan Co-operative Milk Producers' Union Limited (HIMUL). He retired from service as Deputy Manager on 31.07.2015. Despite his retirement in 2015, the gratuity and leave encashment dues were released only on 23.10.2024, following prolong litigation i.e. WPA 860 of 2019, MAT 69 of 2022 and CPAN 33 of 2022. Aggrieved by the inordinate delay in the disbursement of his retirement benefits including gratuity and leave encashment, the petitioner has preferred the present writ petition seeking interest on the delayed payment of gratuity and leave encashment.
3. Mr. Nabankur Pal, learned Advocate for the petitioner submits that a coordinate Bench in a writ petition being WPA 2029 of 2024 (*Subir Kumar Mukherjee @ Subir Mukherjee vs. State of West Bengal & Ors.*) passed an order on 23.09.2024 directing the concerned Treasury Officer to pay

interest at the rate of 7% per annum with effect from the due date till the date of actual payment. He further submits that in the said order it was further provided that if the amount of interest as directed to be paid, is not disbursed within the period of eight weeks from the date of communication of the order, an additional interest at the rate of 2% per annum was also directed to be paid.

4. Mr. Kumar Shantanu, learned Advocate for the State-respondents has made his submissions.

5. This Court observes that the coordinate Bench, upon consideration, held that a retired employee is entitled to receive all retiral benefits, including gratuity and pension, as of the date of superannuation. Such benefits cannot be treated as discretionary or gratuitous payments by the State. The coordinate Bench further held that in the event of delay in disbursement of such dues, the retired employee is entitled to interest on the delayed payment. Accordingly, the coordinate Bench directed the concerned Treasury Officer to pay interest to the petitioner at the rate of 7% per annum on the gratuity amount, computed from the due date until the actual date of payment, subject to the condition that the delay was not attributable to the petitioner. It was further directed that if the said amount is not disbursed within eight weeks from the date of communication of the order, the concerned authority shall be liable to pay additional interest at the rate of 2% per annum on the delayed gratuity, also calculated from the due date until the date of actual payment.

6. The petitioner retired from service on 31.07.2015 and the gratuity and leave encashment were released after a long delay only on 23.10.2024.

7. The petitioner has a legal right to get the retiral benefits immediately upon his retirement and is entitled to interest for any delay in disbursing the same by the authorities, if such delay is not attributable to the employee.

8. After hearing the learned Advocates for the parties, this Court find that the petitioner stands on the same footing with that of the petitioner in WPA 2029 of 2024. In view thereof, the said decision shall squarely apply to the case on hand.

9. Accordingly, WPA 1188 of 2025 is disposed of with the following directions :-

a) The Additional District Magistrate, Darjeeling and Chief Executive Officer, HIMUL, being the respondent no.5 herein, is directed to pay interest to the petitioner at the rate of 7% per annum on the amount of gratuity and leave encashment to be calculated on and from the due date till the date of actual payment if the delay caused was not attributable to the petitioner.

b) If the aforesaid amount is not disbursed within a period of eight weeks from the date of communication of a server copy of this order, the concerned authority shall pay to the petitioner additional interest at the rate of 2% per annum (i.e. 7% + 2% = 9% per annum) on account of delayed payment of gratuity and leave encashment to be

calculated on and from the due date till the date of actual payment.

10. It is, however, made clear that if the delay is attributable to the petitioner, the petitioner shall not be entitled to any interest.

11. It will be open to the respondent authority to take appropriate steps in accordance with law against the erring officers who are responsible for the delay in releasing the retiral benefits to the petitioner.

12. With the aforesaid observations and directions, the writ petition stands disposed of.

13. There shall be no order as to costs.

14. Since no affidavits have been filed by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted.

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

(Gaurang Kanth, J.)