

21.04.2026
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FMA 1344 of 2024
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IA No.: CAN 1 of 2024 [Stay]
Dilip Kumar Bera
– *Versus* –
The State of West Bengal & Others

Mr. Bapin Baidya,
Ms. Juin Dutta Chakraborty,
Mr. Bidan Modak
.... for the Appellant.

The present appeal has been preferred challenging an order dated 18th September, 2024 passed by the learned single Judge in a writ petition, being WPA 22535 of 2024 which was preferred by the writ petitioner/the appellant herein *inter alia* praying for issuance of necessary direction upon the respondents to release the arrear claim of the appellant amounting to Rs.3,77,549/- along with interest. Upon contested hearing, the writ petition was dismissed by the impugned order primarily on the ground of delay observing *inter alia* that the appellant retired on 30th November, 2017 accepting his last pay and the retiral dues including monthly pension without any demur and the writ petition was preferred about seven years after the date of his retirement.

Ms. Dutta Chakraborty, learned advocate appearing for the appellant strenuously argues that the disbursement of the arrear claim, as prayed for, ought not to have been denied on the ground of delay, as issuance of any such direction would not have affected

any third party right. The appellant for the first time came to learn from a resolution adopted by the managing committee on 19th September, 2018 i.e., after his retirement that the incremental benefits payable to him have not been granted. In spite of adopting such resolution, the same was not forwarded to the competent authority, being the respondent no.4 immediately and for such laches on the part of the school authorities, the appellant cannot be made to suffer, moreso when, the appellant had claimed increments by submitting several representations. Such issue, as urged, was glossed over by the learned single Judge and no finding was returned on the same. Such infirmity warrants interference of this Court. In support of the argument reliance has been placed upon a judgment delivered in the case of *Ram Autar Singh Yadav Vs. The State of Uttar Pradesh & Ors.* on 4th December, 2024 in Civil Appeal No. 13806 of 2024 [arising out of SLP (C) No.26568 of 2023].

No one appears today on behalf of the respondents.

Indisputably, the appellant retired on 30th November, 2017. The resolution, adopted by the managing committee on 19th September, 2018 reveals that the appellant was not extended the incremental benefits since the year 2004 and that in the month of April, 2004 he drew a basic of Rs.16,010/- though the admissible basic was Rs.16,490/-. No reason is forthcoming why such erroneous fixation was not contemporaneously

challenged by the appellant. In the pleadings, the delay towards preference of the writ petition from the date of adoption of the resolution has also not been properly explained, save and except that some representations were submitted.

There is no dispute as regards the proposition of law laid down in the judgment delivered in the case of *Ram Autar Singh Yadav (supra)*, however, the same is distinguishable on facts.

In the said conspectus, the learned single Judge refused to exercise discretion in favour of the appellant and we do not find any patent error of law in the order impugned warranting interference in the present appeal.

Accordingly, the appeal and the connected application are dismissed.

There shall, however, be no order as to costs.

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

(Rai Chattopadhyay, J.)

(Tapabrata Chakraborty, J.)