
(2018) 06 CAL CK 0161

In the Calcutta High Court

Case No : C.A.N. 3489 of 2014, F.M.A. 1346 of 2014

Chandi Charan Patra

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

Date of Decision : 18-06-2018

Acts Referred:

Citation : (2018) 06 CAL CK 0161

Hon'ble Judges : SHAMPA SARKAR, J;DIPANKAR DATTA, J

Bench : Division Bench

Advocate : Tapas Kr. Dey, Rakesh Roy, Susmita Mondal, Tapan Kr. Mukherjee, Somnath Naskar, Saheli Mukherjee

Final Decision : Disposed Of

Judgement

The unsuccessful writ petitioner in W.P. 3798(W) of 2014 has carried the order of dismissal thereof dated February 17, 2014 in appeal. The reason for dismissal of the writ petition, as can be seen from the impugned order, is the delay on the part of the appellant in approaching the writ court for relief.

We have heard Mr. Dey, learned advocate appearing in support of the appeal. None appeared on behalf of the official respondents despite service.

Mr. Tapan Kr. Mukherjee, learned Additional Government Pleader, who is present in Court was requested to enter appearance on behalf of the

official respondents. The Legal Remembrancer, West Bengal shall regularise the engagement of Mr. Mukherjee and his juniors.

We record granting of time to Mr. Mukherjee to look into the documents and papers. Only after he has made himself well conversant with the

necessary facts, we have proceeded to decide the appeal. The appellant was a

school teacher, who retired on March 31, 2008. Pension payment order was issued on June 20, 2008. In terms thereof, the appellant was entitled to Rs. 1,39,320/- on account of retiring gratuity.

There is no dispute that the appellant received such amount on August 29, 2008 without raising any demur regarding non-payment of interest on the entire amount of gratuity, which was payable to him by the official respondents immediately after his retirement. A second pension payment order was issued in favour of the appellant on February 02, 2013. It appears therefrom that the retiring gratuity to which the appellant was found entitled was increased to Rs. 1,73,760/-. The appellant was, thus, entitled to an excess amount of Rs. 34,440/-.

Claiming interest on delayed payment of gratuity, the appellant invoked the writ jurisdiction of this Court. The learned judge, as noticed above, dismissed the writ petition on the ground that the appellant had waited for more than three years since his retirement to file the writ petition and there being no challenge to the delay in issuance of the pension payment order itself within three years from date of retirement, he was not entitled to discretionary relief.

Having heard the parties, we are of the considered opinion that the appellant was entitled to limited relief i.e. interest on delayed payment of gratuity to the extent of Rs. 34,440/-. The delay in issuance of the pension payment order dated February 02, 2013 cannot be attributed to the appellant. At least the records do not suggest so. The writ petition having been filed within three years from date of issuance of the second pension payment order, the appellant was not guilty of either delay or laches and the writ petition ought not to have been dismissed in limine.

For the reason stated above, we set aside the order impugned in this appeal and hold that the appellant would be entitled to interest @ 9% per annum on Rs. 34,440/- with effect from August 30, 2008 till payment is made. The official respondents are directed to compute the amount which the appellant shall be entitled to on account of interest and release the same in his favour as early as possible but not beyond September 30, 2018.

With the aforesaid directions, the appeal stands allowed. In view of the above order, nothing survives for decision on the application (C.A.N. 3489 of 2014) and the same also stands disposed of. There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously.