

(2014) 11 CAL CK 0004
In the Calcutta High Court

Case No : F.M.A. No. 2237 of 2014 and CAN No. 10658 of 2014

Karuna Hembrom

APPELLANT

Vs

State of West Bengal

RESPONDENT

Date of Decision : 25-11-2014

Acts Referred:

Citation : (2015) 1 CHN 627

Hon'ble Judges : Jyotirmay Bhattacharya, J; Tapash Mookherjee, J.

Bench : Division Bench

Advocate : Ujani Pal (Samanta), for the Appellant; Sudhangsu Nath, for the Respondent

Judgement

Tapash Mookherjee, J.?This mandamus appeal is directed against an order passed by a Learned Single Judge of this Court on 8th April, 2014 in W.P. No. 9048(W) of 2014 at the instance of the appellant/writ petitioner. By the said order, the writ petition filed by the appellant herein was dismissed by not allowing the writ petitioner's prayer for interest on delayed payment of gratuity. The writ petitioner/appellant who was an Assistant Teacher of a primary school retired from service on superannuation with effect from 31st December, 2010. Pension Payment Order was issued on 18th December, 2012 and payment was made on 30th April, 2013. Thereafter, the writ petitioner/appellant filed the said writ petition on 13th March, 2014 claiming interest on such delayed payment. Learned Trial Court refused to grant such relief just on the ground that the writ petitioner was not prompt enough to claim the relief.

2. It is true that there was some delay, as mentioned above, in filing the present writ petition, but a lawful right cannot be allowed to be defeated for such technical ground alone. The State-respondent held and enjoyed the said money to which the writ petitioner/appellant was all along entitled and thereby the writ petitioner/appellant had to suffer in these circumstances. Equity demands that the State-respondent should pay interest for such delayed payment.

3. Hence by relying upon an unreported decision of this Hon''ble Court in the case of Bibhuti Bhusan Aich vs. The State of West Bengal & Ors. (M.A.T. 1186 of 2014), we dispose of the appeal by directing the State-respondents to pay interest @ 10% per annum on the gratuity amount from the date since when such gratuity was payable to the writ petitioner/appellant up to the date of actual payment of the retiral dues to the writ petitioner/appellant. Such payment should be made within four weeks from the date of communication of this order.

4. The impugned order thus stands set aside and the appeal stands allowed.

Re: CAN 10658 of 2014 (Stay)

5. In view of disposal of the appeal in the manner as aforesaid, no further order need be passed on the stay application. The stay application being CAN 10658 of 2014 is thus deemed to be disposed of. Urgent photostat certified copy of this order, if applied for, be furnished to the applicant as early as possible.

Jyotirmay Bhattacharya, J.

I agree.