
(2011) 02 CAL CK 0076
In the Calcutta High Court
Case No : Writ Petition No. 4647 (W) of 2008

Saralabala Goswami

APPELLANT

Vs

State of West Bengal

RESPONDENT

Date of Decision : 15-02-2011

Acts Referred:

Citation : (2011) 5 CHN 419

Hon'ble Judges : Harish Tandon, J

Bench : Single Bench

Advocate : Ashok Jana, Pampa Dey Dhamal, for the Appellant; Sk. Oli Mohammad, Subrata Mukherjee for the State, for the Respondent

Judgement

Harish Tandon, J.—The writ petitioner seeks a writ of mandamus upon the respondent authorities to consider the representation dated 4th February, 2008 and to pay interest upon the pensionary benefits and gratuity. On the basis of such prayer, direction was given to the respondent to file affidavit-in-opposition. The respondent authorities in their affidavit-in-opposition, have taken a point that the pensionary benefit, in terms of Death-cum-Retirement Benefit Scheme, 1971, has been given to the petitioner and the calculation has also been made in terms of the prevalent circulars.

2. In reply to such contention, the writ petitioner asserted that the rate, at which the pension was given to the writ petitioner, was in complete derogation with the minimum rate of family pension prescribed by the appropriate authority. According to the petitioner, the minimum ceiling rate for family pension has been fixed at Rs. 375/- per month, in terms of Memo No. 1066-F (Pen) dated 2nd June 1992 with effect from 1st January, 1986 which was further enhanced to Rs. 400/- with effect from 1st May, 1992. Since the pension was not paid, in terms of the said circular, keeping the minimum ceiling limit, the respondent should be directed to recast the pension and to extend benefit to the writ petitioner at such rate as has been fixed in the said memo dated 2nd June 1992.

3. Thus, this Court finds that the issue, which existed on the date of filing of the writ petition, was diluted to a new horizon as to what could be the quantum of the family pension in terms of the various circulars.

4. Learned Counsels for both the parties have addressed this Court on the said issue. By the Circular dated 2nd June 1992, minimum pension ceiling of Rs. 375/- per month, which took effect from 1st January 1986, was further enhanced to Rs. 400/- per month with effect from 1st May 1992. It is noticed that "pension" in the said circular means all kinds of pension sanctioned under Death-cum-Retirement Benefit Scheme, 1971; whereas the circular dated 12th April 2000 postulates that an employee who retired or died-in-harness prior to 1st April, 1981, family pension shall be issued at the rate prescribed therein with effect from 1st April, 1996. It appears that minimum family pension ceiling rate, so prescribed, is Rs. 375/- which should be calculated on and from 1st April, 1996.

5. I find from the document annexed to the writ application that the pension with effect from 1st April, 1996 has been paid to the writ petitioner at the said minimum ceiling limit of Rs. 375/- per month.

6. In view of the discussion made above I do not find any merit in the contention of the writ petitioner.

7. Since the point for consideration, in this writ application, is restricted to the quantum of monthly family pension given to the petitioner between the period from 1983 to 1992, if the petitioner has anything to submit with regard to the quantum of the monthly family pension for the subsequent period, in derogation with the relevant circulars applicable to the writ petitioner, the writ petitioner shall be at liberty to agitate the same.

8. The writ application, thus, stands disposed of.

9. There shall be no order as to costs. Urgent xerox certified copy, if applied for, be supplied to the parties on priority basis.