
(2018) 07 CAL CK 0096
In the Calcutta High Court
Case No : WP 681 of 2017

Shri Ranjit Kumar Samanta APPELLANT
Vs
State Of West Bengal & Ors. RESPONDENT

Date of Decision : 17-07-2018

Acts Referred:

Industrial Disputes Act, 1947 — Section 33C(1)

Citation : (2018) 07 CAL CK 0096

Hon'ble Judges : ARINDAM SINHA, J

Bench : Single Bench

Advocate : Subir Kumar Bhattacharya

Final Decision : Disposed Off

Judgement

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The Court : Affidavit of service is filed along with postal article addressed to respondent no.4 which bears endorsement appearing to be as

â??refusedâ??.

Writ petitioner is a workman who has come to Court seeking relief of interference with order dated 20th November, 2012 of First Labour Court,

Kolkata to the extent of omission to direct payment of interest and for recovery of Rs.6,18,717/- as ordered to be amount due to him.

Mr. Bhattacharya, learned advocate appears on behalf of petitioner and submits, said Court fell in errorÂ in not considering decision reported in

2000(2) LLJ 1123. When it has found that payment of wages was not made to his client, said Court ought to have awarded interest. As such, the

omission is erroneous in law. He seeks directions for payment of interest. He also seeks appropriate directions for recovery of ordered amount.

In impugned order, inter alia, the following was found and held:

“In another decision reported in 2000 II LLJ 1123 it has been observed that for delayed payment of arrears employee held entitled to interest.

“ On perusal of the calculation it appears that the applicant has calculated 50% of total dues till 2003 and thereafter since 2004 he has added the entire amount and has also calculated the interest without stating anything about the rate of the same. It appears from the said calculation that the applicant is entitled to get Rs.1,04,04/- for the period till 2003 as he is entitled to get 50% of wages from the date of award and an amount of Rs.6,06,372/- for the period from 2004 to August 2011 as he is entitled to full wages after the order of Hon’ble Apex Court as he was not re-instated in service by opposite party. So the entire claim amount of the applicant is Rs.7,10,414/- and out of that the applicant has already received Rs.91,697/- from the company. So he is entitled to get Rs.6,18,717/- from the company.

The order of Hon’ble Apex Court has not stated anything about payment of any interest to the applicant by the opposite party and considering the facts that the award of Hon’ble Apex Court is silent about anything like interest, there is no scope to allow any interest in favour of the applicant by this Court. “

Writ petition discloses copy of order dated 2nd April, 2003 made by Supreme Court in Civil Appeal 5464 of 2000 being petitioner’s own case. Mr.

Bhattacharya has not been able to show anything contrary regarding interest in said order than that which said Court said appears therefrom.

On query from Court Mr. Bhattacharya submits, no application under sub-section (1) in section 33C, Industrial Disputes Act, 1947 could be made by petitioner because respondent no.4 filed and moved writ petition and appealed against order made therein. Sub-section (1) in section 33C provides for recovery of money due from an employer, on application made to appropriate Government, as arrear of land revenue. This provided for recovery proceeding must be initiated by application made to appropriate Government, on the basis of impugned order directing payment of said sum to petitioner. This application must be accompanied by sufficient cause shown for being made beyond the prescribed period.

With above observations this writ petition stands disposed of.