
(2016) 02 CAL CK 0114
In the Calcutta High Court
Case No : Writ Petition No. 24715 (W) of 2015

Sm. Karabi Nath (Dey)

APPELLANT

Vs

State of West Bengal

RESPONDENT

Date of Decision : 24-02-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 5 WBLR 130

Hon'ble Judges : Sanjib Banerjee, J.

Bench : Single Bench

Advocate : Mr. Saibal Acharyya, Advocate, for the Petitioner; Mr. Amitava Choudhuri, Advocate, for the Respondent Nos. 2 to 4

Final Decision : Dismissed

Judgement

Sanjib Banerjee, J.—The claim is by the widow of an erstwhile employee of Indian Health Institute and Laboratory Limited which had been taken over by the State Government prior to the retirement of the petitioner's husband therefrom in the year 1984.

2. As was the fashion till the late 1980s, sick industrial undertakings were taken over by the State or Central Governments primarily to ensure that the employees at such sick industrial undertakings were not left in the lurch.

3. It is evident from the notice of superannuation issued to the petitioner's deceased husband on March 1, 1984 that the relevant company promised the retiring employee that his gratuity would be paid by the company and the provident fund would be settled by the Board of Trustees. The notice also indicated that the back wages of the retiring employee would not be paid, but the same would be considered upon the company being nationalised or being able to generate surplus funds.

4. Thus, it is evident that the industrial undertaking was merely taken over by the Government without all the liabilities of the workers or employees being

taken over. In any event, in the affidavit used by the respondent nos. 2 and 3 it has been indicated that Indian Health Institute and Laboratory Limited merged with Gluconet India Limited to form a merged entity by the name of Gluconet Health Limited in the year 1995.

5. The petitioner's husband died in the year 1997. For a period of 13 years during the lifetime of the petitioner's husband after his retirement, the concerned employee did not pursue his claim. The petitioner issued a few letters immediately prior to the institution of the present petition or a few years back.

6. Though the statutory prescription of limitation does not apply to Article 226 of the Constitution, stale claims are not entertained in this extraordinary jurisdiction on the same equitable principles on which the prescription of limitation is founded.

7. Since the concerned employee and, thereafter, the petitioner slept over their rights for nearly three decades before coming to court complaining of money due in 1984 not being paid, the matters complained of can no longer be gone into.

8. W.P. 24715 (W) of 2015 is dismissed.

9. There will be no order as to costs.

10. Urgent certified website copies of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.