
(2009) 11 CAL CK 0014
In the Calcutta High Court
Case No : Writ Petition No. 14526 (W) of 2004

Tushar Kanti Ghosh

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 26-11-2009

Acts Referred:

Citation : (2010) 124 FLR 368

Hon'ble Judges : Jayanta Kumar Biswas, J

Bench : Single Bench

Advocate : Salauddin, for the Appellant; Subrata Banerjee Counsel for the State, for the Respondent

Judgement

Jayanta Kumar Biswas, J.—The petitioner was an assistant teacher in a secondary school. On reaching the age of superannuation he retired on February 28, 2002. Though he was entitled to retirement benefits including pension, only provisional pension was sanctioned. Since his retirement benefits remained unpaid, he moved this writ petition dated August 26, 2004. The pension payment order has been issued only on September 16, 2009. It is submitted that this step has been taken in view of order made by this Court in the pending writ petition. Ultimately, retirement benefits payable according to law have been paid, but without interest.

2. Counsel for the petitioner submits that the petitioner is entitled to interest for delay in payment of retirement benefits. Counsel for the respondents submits that the additional secretary of the education department directed the district inspector of schools concerned to issue a show cause to the institute that grossly failed in the discharge of its duties in that it did not submit the requisite papers to the district inspector of schools for processing the petitioner's pension papers. He says that the state is not at fault, and that the delay has occasioned entirely for lapses on the part of the institute against which the State intends to proceed in accordance with law.

3. The question is whether for lapses, if any, on the part of the institute that gets hundred per cent grant-in-aid from the State the petitioner can be deprived of interest for delay in payment of his retirement benefits. In my view, he cannot be deprived of interest for the lapses, if any, on the part of the institute. It is entirely for the State whether it will proceed against the institute in view of the fact that according to the State the institute has grossly failed in the discharge of its duties and thus created unnecessary financial burden of the State.

4. For these reasons, I dispose of the writ petition ordering that the State shall pay the petitioner interest on the retirement benefits at the rate of ten per cent per annum from March 1, 2002 till the date of actual payment of the benefits. Payment in compliance with this order shall be made within four weeks from the date of communication of this order to the secretary of the education department concerned. There shall be no order for costs.

5. Copy of this order duly countersigned by the Assistant Registrar (Court) shall be supplied to advocates for the parties on usual undertakings.

6. Urgent certified xerox of this order, if applied for, shall be supplied to advocates for the parties within three days from the date of receipt of the file by the section concerned.