(2020) 02 CAL CK 0075

In the Calcutta High Court

Case No : General Application (GA) No. 291 Of 2020, Temp APO (APOT) No. 5 Of 2020

West Bengal Essential Commodities Supply Corp. Ltd. And Ors APPELLANT

Vs

Snehansu Majumdar And Anr RESPONDENT

Date of Decision : 18-02-2020

Acts Referred:

Citation : (2020) 02 CAL CK 0075

Hon'ble Judges : Soumen Sen, J;Saugata Bhattacharyya, J

Bench : Divison Bench

Advocate : Sanjay Saha, Bhaskar Prasad Banerjee, Parashar Baidya, Satyendra Agarwal

Final Decision : Disposed Of

Judgement

The Court : By consent of the parties the appeal and the applications are taken up together for consideration and disposed of by this common order.

The appeal is arising out of an order dated 27th November, 2019 by which the writ petition was allowed. The respondent authority was directed to

grant interest to the petitioner on account of delayed payment of his retiral dues at the rate of 7% per annum to be calculated on and from his date of

accrual till the date of actual payment. There is a default clause also in the order under challenge.

We have heard the leaned Counsel for the parties. On consideration of the materials it appears that disciplinary proceedings was pending against the

writ petitioner which, however, did not come to its logical end. During the pendency of the disciplinary proceedings, the writ petitioner volunteered to

resign and accordingly submitted a letter of resignation on 29th March, 2006. Even after the writ petitioner tendering his resignation, the Corporation did not respond to the said resignation nor concluded the disciplinary proceedings. After a lapse of almost 11 years the letter of resignation was

accepted with retrospective effect and the Managing Director of the appellant directed its department to release the retiral benefits which are due and

outstanding. This payment was not apparently released. The writ petitioner raised various issues with regard to pay fixation as well as interest on the

delayed payment.

It appears that the writ petitioner retired in April, 2010. Even we accept the submission on behalf of the appellant that the appointing authority had the

choice to accept the resignation but the same could not have been delayed beyond April, 2010 and the admissible retiral benefits should have been

released soon thereafter. There are decisions gallore including S.K. Dua vs. State of Haryana & Ors. reported in 2018(3) SCC 44 (paragraph 14)

reiterating the well-settled principle that the retiral benefits are not in the nature of â??bountyâ?? and the employee is entitled to interest on account

of delayed payment of his retiral dues. The learned single Judge, in our view, has rightly relied upon the said decision in awarding the interest in favour

of the writ petitioner. There can be an explanation available to the appellant for not accepting the resignation prior to his normal date of retirement as it

was within their province whether to consider such resignation pending disciplinary proceedings. However, we modify the order to the extent that the

interest shall be calculated from May, 2010 and not from the date when he tendered his resignation. The other directions passed by the learned Single

Judge shall remain untouched.

The provident fund authorities are represented by Mr. Satyendra Agarwal, Advocate. We direct the provident fund authorities also to release the

admitted dues of the writ petitioner within six weeks from date upon compliance of all formalities if it had not been completed in the meantime. If

there are any discrepancy in the record to be rectified by the employer or the employee concerned, the provident fund authority shall communicate

such discrepancy to the writ petitioner as well as to the appellant within two weeks from date.

The appeal and the applications are accordingly disposed of.

