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KOLKATA BENCH, KOLKATA

O.A/350/315/2018

Date of Order: 23.09.2019

Coram: Hon'ble Mrs. Manjula Das, Judicial Member
Hon'ble Mr. N. Neihsial, Administrative Member

Mrityunjoy Sarkar, s/o Late Kashinath Sarkar,
aged about 63 years, Retd. Catg. Hd. Clerk,
residing at 16, LMC Sarani 2nd Bylane, Baksara,
Howrah : 711110.

...Applicant

Versus

1. Union of India service through the General Manager, S.E. Railway, 13, Garden Reach Road, Garden Reach, Kolkata 700043.
2. The Chief Personnel Officer, S.E. Railway, 13, Garden Reach Road, Garden Reach, Kolkata 700043.
3. F.A&CAO S.E. Railway (Pen), 13, Garden Reach Road, Garden Reach, Kolkata 700043.
4. Chief Comml. Manager, S.E. Railway, 14, Strand Road, New Korlaghata, Kolkata 700043.
5. Senior Personnel Officer (Comml) 14, Strand Road, New Korlaghata, Kolkata 700043.

...Respondents

For the Applicant(s): Mr. D. K. Mukhopadhyay, counsel

For the Respondent(s): Mr. R. K. Gupta, counsel

O R D E R (O R A L)

Per: Mrs. Manjula Das, Judicial Member:

Heard Mr. D. K. Mukhopadhyay, 1d. counsel appearing for the applicant and Mr. R. K. Gupta, 1d. counsel for the respondents.

2. Limited prayer made by the applicant in this O.A is for payment of interest on delayed payment of pensionary benefits.

3. Mr. D. K. Mukhopadhyay, Ld. counsel for the applicant submits that the applicant had retired on 31.12.2006 from the Railways and the retirement dues were ultimately released in the year 2014. Thus, there is a delay of more than 7 years in payment of pensionary benefits by the Department.

On the other hand, Mr. R. K. Gupta, ld. counsel appearing for the respondents submits that the applicant had not retired from the Railways but was serving under IRCTC and, therefore, he is not entitled to get pension as well as delayed interest payment, if any, from the Railways.

3. Ld. counsel for the applicant draws our attention to the Annexure A/8, page 27 of the O.A, which is the PPO order issued by the Railways for releasing the pension. Admittedly, there is a delay in payment of pension.

4. In the case of **D.D. Tewari (Dead) through legal representatives Vs. Uttar Haryana Bijli Vitran Nigam Limited and others, (2014) 8 SCC 894**, the Hon'ble Supreme Court has held as under:

"4. It is an undisputed fact that the appellant retired from service on attaining the age of superannuation on 31.10.2006 and the order of the learned single Judge after advertizing to the relevant facts and the legal position has given a direction to the employer-respondent to pay the erroneously withheld pensionary benefits and the gratuity amount to the legal representatives of the deceased employee without awarding interest for which the appellant is legally entitled, therefore, this Court has to exercise its appellate jurisdiction as there is a miscarriage of justice in denying the interest to be paid or payable by the employer from the date of the entitlement of the deceased employee till the date of payment as per the aforesaid legal principle laid down by this Court in the judgment referred to supra. We have to award interest at the rate of 9% per annum both on the amount of pension due and the gratuity amount which are to be paid by the respondent."

5. By taking into account the entire conspectus of the case and the ratio laid down in D.D. Tewari (supra), we dispose of the O.A by directing the respondents to pay interest at the current rate on the delayed payment of the pensionary benefits. No order as to costs.

(N. Neihsial)
Member (A)

(Manjula Das)
Member (J)

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