(2012) 07 CAL CK 0007

Calcutta High Court

Case No: Writ Petition No. 15369 (W) of 2012

Ratan Chandra Nag and Others		APPELLANT
	Vs	
North Bengal State Transport Corporation and Another		RESPONDENT

Date of Decision: July 25, 2012

Hon'ble Judges: Jayanta Kumar Biswas, J

Bench: Single Bench

Advocate: Srijan Nayak and Mr. Raja Saha, for the Appellant; Pantu Deb Roy, Siddhartha Rej and Mr. S. Guha Biswas, for the Respondent

Judgement

Hon''ble Mr. Justice Jayanta Kumar Biswas

1. This WP under art.226 is entertained only at the instance of the first petitioner. Insofar as the other petitioners are concerned, it is dismissed giving them liberty to file separate WPs on the same cause of action. The first petitioner is alleging that for undisclosed reasons the respondents liable to pay him leave salary etc. and not disputing his entitlement and their liability have not paid the benefits.

2. It is not disputed that the first petitioner retired from services of North Bengal State Transport Corporation (in short NBSTC) on August 31, 2009, and that NBSTC incurred an obligation to pay him leave salary, etc. on September 1, 2009. Nor is it disputed that NBSTC has not paid him the benefits.

3. Mr Deb Roy appearing for NBSTC submits that the first petitioner was paid in excess of his entitlement; that the amount payable could not be paid for acute financial crisis; and that for gratuity the petitioner had a remedy under s.8 of the Payment of Gratuity Act, 1972. He has relied on an unreported Division Bench decision dated March 27, 2012 in MAT No.112 of 2012 (The Managing Director, CTC Ltd. & Ors. v. Munshi Abdul Rouf & Ors.).

4. In my opinion, financial crisis, if any, of NBSTC is not a ground to say that it was or is entitled to withhold the first petitioner''s leave salary, etc. It was under an

obligation to pay the benefits on September 1, 2009. By withholding the benefits it has caused irreparable loss and harassment to the first petitioner. This is a litigation it has generated without any valid reason.

5. In my opinion, NBSTC should be ordered to pay the petitioner all the benefits to which he is entitled. The relied on Division Bench decision does not entitle NBSTC to withhold the benefits or pay them in the manner it wishes. It is liable to pay interest. I think interest, if ordered at the rate of 7% p.a., will be fair and reasonable. For these reasons, I dispose of the WP directing NBSTC to pay the first petitioner leave salary, etc. according to law with interest at the rate of 7% p.a. from September 1, 2009, within four weeks from the date this order is served on it. No costs. Certified xerox