

(2012) 07 CAL CK 0197

Calcutta High Court

Case No: Writ Petition No. 186 (W) of 2012

Sri Ajit Kumar Banerjee

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision: July 25, 2012

Acts Referred:

- Constitution of India, 1950 - Article 226

Hon'ble Judges: Jayanta Kumar Biswas, J

Bench: Single Bench

Advocate: Asit Baran Mukherjee, for the Appellant; Amalesh Bag, Advocate for the UOI and Mr. A.K. Routh and Mr. Sudeep Pal Choudhury, Advocates for the bank, for the Respondent

Judgement

Hon'ble Mr. Justice Jayanta Kumar Biswas

1. The petitioner in this WP under art. 226 dated January 3, 2012 is seeking a mandamus commanding the fifth, sixth and seventh respondents to pay him commuted value of pension pursuant to an order of the Central Pension Accounting Office, Government of India dated April 12, 2001 (WP p.14). The order of the Central Pension Accounting Office (in short CPAO) dated April 12, 2001 was sent to the Manager, State Bank of India, Main Branch, Medinipur mentioning that the paying branch would be the Badanganj Branch of the bank in Medinipur. The branch refused to pay saying that it did not receive the order. Repeated requests from the CPAO and the petitioner were turned down.

2. The frustrated and disappointed petitioner ultimately brought this WP. It was taken up for admission hearing on June 22, 2012, only when the branch said that it would pay the commuted value. When this Court proposed to dispose of the WP ordering the bank to pay interest and costs, Mr. Pal Chowdhury appearing for the bank vehemently opposed the proposed order saying that the branch should not be made liable to pay interest and costs.

3. Under the circumstances, the WP was admitted and the bank was given opportunity of filing Affidavit-in-Opposition. It was not contended that the bank was not a respondent.
4. The fifth respondent, the Manager of the branch concerned, filed an Affidavit-in-Opposition dated July 2, 2012 repeatedly saying that the branch never received the order of the CPAO dated April 12, 2001; and taking this stand he contended that there was no reason to make the bank liable to pay interest and costs.
5. On July 6, 2012 the WP was taken up for final hearing and over the course of hearing for the first time Mr. Pal Choudhury took the plea that the bank, a necessary party, was not made a respondent.
6. Under the circumstances, order dated July 6, 2012 was passed adding the bank as a respondent and directing the Manager of State Bank of India, Main Branch, Medinipur to file an affidavit stating whether the Main Branch received the order dated April 12, 2001 and directed the Badanganj Branch of the bank to pay the petitioner commuted value pursuant to the order.
7. In compliance with the order dated July 6, 2012 the Manager, State Bank of India, Main Branch, Medinipur has filed an affidavit dated July 23, 2012 that the order of the CPAO dated April 12, 2001 was duly received by the bank, and that it was duly sent to the branch concerned for paying the petitioner the commuted value of pension mentioned therein.
8. It is, therefore, evident that the Managers concerned of the Badanganj Branch of the bank (including the Manager who has filed the affidavit dated July 2, 2012) have consistently made incorrect statement that the branch never received a copy of the order of the CPAO dated April 12, 2001. Taking this plea the branch did not pay the petitioner his commuted value of pension from April 12, 2001 till today.
9. The Managers who refused to pay the commuted value of pension caused the petitioner irreparable loss and prejudice and seriously tarnished the image of the bank. Even after the WP was filed the Manager who filed affidavit dated July 2, 2012 did not think it appropriate to ascertain the actual state of affairs from bank's Main Branch in Medinapur.
10. It is only after the Manager of the Main Branch has filed the affidavit that the truth has come out. As to proceedings against the Manager who has filed the affidavit dated July 2, 2012, it is for the authorities of the bank to examine what they would do. But as to the petitioner's grievance, there can be no doubt that he is entitled to the commuted value with interest from April 12, 2001 and costs. For these reasons, I dispose of the WP ordering as follows. The bank shall pay the commuted value with interest, treating the amount as kept in a long term deposit from April 12, 2001 till the date of payment, and Rs. 10,000 costs. Nothing herein

shall prevent the bank from taking action against the persons responsible. Compliance within a fortnight from the date this order is served. No costs. Certified xerox.