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akb Ct. No. 2

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A. 713 of 2019

**Namita Saha
-Versus-
The State of West Bengal & Ors.**

Mr. Tapas Kumar Dey

...For the Petitioner

**Mr. Bikramaditya Ghosh
Ms. Bedashruti Bose**

...For State Respondents

Affidavit of service filed in court today is kept with the record.

The material facts of the case are supported by records and hence I have not called for affidavits.

The husband petitioner was an Assistant Teacher of a Primary School and he retired from service on August 31, 2006 and died on July 17, 2011. The first pension payment order was issued on August 18, 2006 and the gratuity and arrear pension was disbursed on October 3, 2006. Under the ROPA Rules, 2009 there was revision of the pensionary amount payable to the petitioner. The revised pension payment order was issued on May 25, 2012 and the gratuity and arrear pension was disbursed on October 16, 2012 in terms of ROPA, 2009. The petitioner claims interest on delayed payment of revised arrear pension amount.

I have heard learned counsel for the petitioner and I have considered the orders passed by this court in similar facts. It is settled law that retired employee is entitled to some amount of interest on delayed payment of arrear pension.

There is a considerable delay in filing of the writ petition, which the petitioner seeks to justify by stating that there is no statutory period of limitation and

neither parties have suffered due to this delay. It is the submission of the petitioner that accordingly the petition should be allowed. The petitioner relies upon an order in W.P. 17557 (W) of 2017 (Narayan Chandra Saha vs. State of West Bengal & Ors.) wherein a co-ordinate Bench had relied upon the Supreme Court judgment in the case of Union of India vs. Tarmen Singh, reported in (2008) 8 SCC 648 on the issue of limitation relating to payment or refixation of pay or pension wherein the Apex Court had held that relief may be granted in spite of delay as it does not affect the rights of the third party.

In view of the aforesaid, I direct the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal as also the concerned Treasury Officer to pay interest to the petitioner @ 8% per annum on the revised arrear pension calculated on and from 19.05.2009 till the date of actual payment. Such payment is to be made within a period of eight weeks from the date of communication of this order.

With these observations, the writ petition is disposed of.

Since, no affidavit-in-opposition has been called for, the allegations made in the writ petition are deemed to have not been admitted by the respondents.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties, on priority basis.

(Shekhar B. Saraf, J.)

