

16 02.12.19
akb Ct. No. 2

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction
W.P.A. 720 of 2019
Kamala Singh
-Versus-
The State of West Bengal & Ors.**

Ms. Sabita Khutia (Bhunya)

...For the Petitioner

**Mr. Subir Kumar Saha
Ms. Bebashruti Bose**

...For State Respondents

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

The petitioner was an assistant teacher of Dr.Rajendra Prasad Girls' High School, Village – Dangipara, Post Office – Siliguri, District – Darjeeling, who retired on December 31, 2002. The petitioner had completed all her pension related formalities within time. However, the concerned authorities delayed and released her gratuity amount on 01.01.2005. The petitioner herein seeks interest to be paid on the gratuity amount. 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 above and after hearing the

learned Counsel for the parties, 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 gratuity amount calculated from 01.02.2003 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.)