21 akb 02.12.19 Ct. No. 2

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

W.P.A. 727 of 2019
Jharna Roy
-Versus-
The State of West Bengal & Ors.

Mr. Sakti Pada Jana ...**For the Petitioner**

Mr. Hirak Barman
Ms. Bedashruti Bose ...**For State Respondents**

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

The husband of the petitioner was an assistant teacher of a Primary School, who retired on February 28, 2002. The grievance of the petitioner is that the arrear pension amount was disbursed only on 23.4.2006. Petitioner claims interest on the delayed payment of the pension amount.

It is now well settled that the pensionary benefits are to be released to the retired employee of his heirs immediately upon retirement/death. If there is a delay in releasing the pensionary benefits, the retired employee is entitled to interest.

Various orders have been passed by this Court holding that the retired employee is to receive interest on delayed payment of the pensionary benefits. Some of such orders have been placed before me.

Although the point of delay or limitation has not been urged on behalf of the State, I deem it appropriate to address that issue briefly. The Limitation Act, in terms does not apply to writ petitions. The Hon'ble Supreme Court in the case of Union of India vs. Tarmen Singh, reported in (2008) 8 SCC 648 has observed that if that issue relates to payment or refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of the third party. It is settled law that the right of a retired employee to get his retiral dues on the date of attaining superannuation is a valuable right which accrues in his favour on the date of his attaining superannuation. Further, pension is no more considered to be a bounty to be handed out by the State at its whim. An employee has a right to receive pension upon retirement. If payment of such pension is delayed, the retired employee is surely entitled to get some interest for such payment.

The Rule that the High Court may not enquire into belated and state claim is not a rule of law, but one of practice based on sound and proper exercise of discretion. The principle on which the relief to a party is denied on the ground of laches or delay in approaching the court should not be allowed to be disturbed. In the present case, it was the bounden duty of the State to disburse the pension amount on the due date. If it has failed to do so and has released such amount after unexplained delay, it is obliged to pay interest to the retired employee. This is compensatory in nature. Pension and gratuity are aimed at maintaining the life of a retired employee and his/her dependants, these are welfare provisions and these welfare provisions and even if there is delay on the part of a retired employee to approach claiming interest on delayed payment of pension, the delay per se should not be the ground for rejection of the writ petition. No third party interest will be affected by a direction on the State to compensate the retired employee for delayed payment of pension by paying interest at a reasonable rate.

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 arrear pension amount calculated from 01.04.2002 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.)