

28 02.12.19
akb Ct. No. 2

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

W.P.A. 734 of 2019

Manisha Sarkar

-Versus-

The State of West Bengal & Ors.

Ms. Arpita Saha

...For the Petitioner

Mr. Subir Kumar Saha

Mr. Ankan Mitra

...For State Respondents

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

The husband of the petitioner was a Teacher of a Primary School, Darjeeling, who died-in-harness on 25.06.2017. The petitioner had completed all her pension related formalities just after the death of her husband. However, the concerned authorities delayed and released her gratuity amount and arrear pension on 18.07.2018. The petitioner herein seeks interest to be paid on the gratuity amount and arrear pension for the interim period of delay in receipt of the gratuity amount and 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 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 and arrear pension calculated from 26.07.2017 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.)