

03-12-2019
Court No.2
Sh/27.

**CIRCUIT BENCH OF
CALCUTTA HIGH COURT
AT JALPAIGURI
WRIT APPELLATE JURISDICTION
APPELLATE SIDE**

W.P.A. 864 OF 2019

Domnica Tirkey. Petitioner.

Vs.

State of West Bengal & Ors.... .Respondents.

Ms. Arpita Saha.

. . .For the Petitioner.

Mr. Debabrata Dhar, (AGP),

Ms. Paramita Sahu.

. . .For the State.

1. Affidavit of service filed in Court is kept with the record.

2. The material facts of the case are admitted and hence I have not called for affidavits.

3. The husband of the petitioner was appointed as an Assistant Teacher of a concerned School and he retired from service on 31-07-2008 and died on 08-02-2017. The first pension payment order was issued on 24-09-2007 and the gratuity was disbursed on 06-11-2007. Under the ROPA Rules, 2009 there was revision of the pensionary and gratuity amount payable to the petitioner. The revised pension payment order was issued on 21-07-2014 and the gratuity amount was disbursed on 31-01-2015 in terms of ROPA, 2009. The

petitioner claims interest on delayed payment of the revised gratuity amount.

4. 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 judgement in the case of Union of India Vs. Tarsem Singh, reported in (2008) 8 S.C.C. 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.

5. 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 writ petitioner @ 8% per annum on the revised gratuity amount calculated on and from May 19, 2009 till actual date of payment, that is, 31-01-2015.

6. Such payment is to be made within eight weeks from the date of communication of this order to the concerned authorities.

7. This writ petition being W.P.A. 864 of 2019 is, thus, disposed of.

8. Urgent Photostat certified copy of this order, if applied for, be handed over to the parties on compliance of necessary formalities.

(SHEKHAR B. SARAF, J)