

03-12-2019
Court No.2
Sh/32.

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

W.P.A. 872 OF 2019

Passang Rai. . . . Petitioner.

Vs.

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

Mr. Debajit Kundu.

. . .For the Petitioner.

Mr. Bikramaditya Ghosh,

Mr. Momenur Rahaman.

. . .For the State.

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

2. The husband of the petitioner was an Assistant Teacher of Birpara Nepali High School (HS), Jalpaiguri, who died-in-harness on 05-04-2011. The petitioner had completed all her pension-related formalities. However, the concerned authorities delayed and released his gratuity amount on 01-02-2014. The petitioner herein seeks interest to be paid on the death-cum-retiring gratuity amount for the interim period of delay in receipt of 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 judgement in the case of Union of India Vs. Tarmen 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 inspite of delay as it does not affect the rights of the third party.

3. 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 06-05-2011 till the date of actual payment, that is, 01-02-2014. Such payment is to be made within a period of eight weeks from the date of communication of this order.

4. This writ petition being W.P.A. 872 (W) of 2019 is, accordingly, disposed of.

5. Since no affidavit is called for, the allegations made in the writ petition are deemed to have been denied.

6. 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)