

12-12-2019
Court No.3
Ab
SI/11.

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

W.P.A. 979 OF 2019

**Dayamay Chakraborty
Vs.
The State of West Bengal & Ors. .**

Mr. Debajit Kundu
. . .For the Petitioner.

Mr. Bikramaditya Ghosh
Mr. Momenur Rahman

. . .For the State.

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

The petitioner was a college clerk of Surya Sen Mahavidyalaya, Darjeeling, who retired from service on November 30, 2009. He had completed all pension-related formalities prior to his retirement. However, the concerned authorities delayed and released his gratuity amount and arrear pension on April 02, 2011. 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 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 re-fixation 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.

In view of the above and after hearing the Learned Counsel for the petitioner, 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 December 01, 2009 till the date of actual payment.

Such payment is to be made within eight (08) weeks from the date of communication of this order to the concerned authorities.

The Writ Petition being W.P.A. 979 of 2019 is, thus, disposed of.

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

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

(RAJARSHI BHARADWAJ, J)