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WPA 3306 of 2020

Gobinda Chandra Mandal
Vs
State of West Bengal & Others
(Via Video Conference)

Ms. Sabita Khutia (Bhunya).
... For Petitioner
Mr. Debanjan Chatterjee.
... For State

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

I have taken up this matter on the undertaking of Mr. Debanjan Chatterjee, learned advocate, to file his Vakalatnama on behalf of the State in course of the next week.

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

The petitioner was appointed as a High School Assistant Teacher and retired from service on **31.01.2003**. The pension payment order was issued on **10.01.2003**. The gratuity amount was paid to the petitioner on **05.08.2003**. The petitioner claims interest on the delayed payment of gratuity.

It is now settled law that the gratuity amount is to be released to the retired employee immediately upon retirement. If there is a delay in releasing the gratuity amount, the retired employee is entitled to interest.

Various orders have been passed by this Court holding that the retired employee is entitled to receive interest on delayed payment of gratuity. 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 the 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 or third parties. 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, gratuity 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 gratuity upon retirement. If payment of such gratuity is delayed, the retired employee is surely entitled to get some interest for such delayed payment.

The Rule that the High Court may not entertain into belated and stale 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 is that the right which have accrued to others by reason of 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 gratuity 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 dependents, these are welfare provisions and even if there is delay on the part of a retired employee to approach the Court claiming interest on delayed payment of gratuity and pension, the delay per se should not be the ground for

rejection of the writ petition. No third party interest will be affected by direction on the State to compensate the retired employee for delayed payment of gratuity by paying interest at a reasonable rate.

Having heard the learned counsel for the parties and having regard to the orders of this Court passed in other matters, 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 at the rate of 9% per annum on the gratuity amount calculated from 01.02.2003 till actual date of payment.

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

Since no affidavit-in-opposition has been invited, the allegations contained in the writ petition are deemed not to be admitted.

WPA 3306 of 2020 is, accordingly, disposed of.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on priority basis.

(Arijit Banerjee, J.)