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13.10.2020

**WPA 4467 of 2020**

**Anjana Paul & ors.  
Versus  
The State of West Bengal & ors.**

Mr. S. Khutia (Bhunya) ... for the Petitioner.

Ms. Neelam Singh ...for the State.

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

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

The petitioner no. 1's husband was an assistant teacher of a high school and died in harness on August 13, 2006. The first pension payment order was issued on June 25, 2007 and the gratuity and pension was received by the petitioners on 30.07.2007. The ROPA Rules, 2009 came into effect on May 19, 2009. As per the provisions of the said Rules, there was revision of the pensionary and gratuity amount payable to the petitioner. The revised PPO was issued on 19.04.2012 and the revised gratuity amount and arrear pension were paid to the petitioners on 31.07.2012.

This position is not disputed by learned counsel appearing on behalf of the State who submits that there was some delay due to administrative reasons.

I have heard learned counsel for the parties and I have considered the orders passed by this Court

in similar facts.

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 Versus 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 of 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, pension and gratuity are no more considered to be a bounty to be handed out by the State at its whim. An employee has a statutory right to receive gratuity and pension upon retirement. If payment of such pension and 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 enquire 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 and pension 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 a direction on the State to compensate the retired employee for delayed payment of gratuity and pension by paying interest at a reasonable rate.

Since admittedly there was a delay in payment of the initial and revised gratuity and pension amounts to the petitioner and having regard to the various judgments and orders of this Court 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 cent per annum on the gratuity and arrear pension amounts on and from September 1, 2006 till 30.07.2007 and also interest at

the rate of 9 % per annum on the revised gratuity and arrear revised pension from June 1, 2009, 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 No. 4467 of 2020 is, accordingly, disposed of.

There will be no order as to costs.

Urgent certified website copies of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.

**( Arijit Banerjee, J. )**