

Court No. 24

24.09.2020

(DL 2)

(S. Banerjee)

WPA 4526 of 2020
(Old No. WP 4526(W) of 2020)

Chaitali Bhattacharya
Vs.
The State of West Bengal & Ors.

Ms. Sabita Khutia (Bhunya), learned Advocate

... for the petitioner

Mr. Syed Masihar Rahman, learned Advocate

... for the State-respondents

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's husband was appointed as a teacher of a primary school and died-in-harness on 19.11.2007. The first Pension Payment Order was issued on 08.12.2008. The Gratuity amount and arrear pension was paid to the petitioner on 27.02.2009. 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 20.02.2013 and the Gratuity amount and arrear pension was disbursed on 02.04.2013 in terms of ROPA Rules, 2009. The petitioner claims interest on delayed payment of the initial Gratuity and arrear pension as also revised Gratuity and pension.

I have heard learned counsel for the parties and I have considered the orders passed by this Court in similar facts. It is settled law that a retired employee is

entitled to some amount of interest on delayed payment of gratuity and arrear pension.

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, gratuity and pension 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 gratuity and pension 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.

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 at the rate of nine per cent per annum on the original gratuity amount as well as arrear pension for the period from 01.12.2007 till 27.02.2009 and also interest at the rate of nine per cent per annum on the revised gratuity amount as well as revised arrear pension calculated on and 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 4526 of 2020 (Old No. WP 4526 (W) 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 upon compliance of requisite formalities.

(Arijit Banerjee, J.)