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Ct. 15

19.01.2021.

W.PA. 769 of 2021

Bichitra Sarkar Vs The State West Bengal & Ors.

Mrs. Sabita Khutia (Bhunya)
... For the Petitioner.
Mr. Jyotosh Mazumder (Ld. G.P.)
Ms. Kakoli Samajpaty
... For the State.

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

The husband of the petitioner was an Assistant Teacher of a Primary School, Uttar Dinajpur who retired on 31.05.2011. He had completed all his pension-related formalities prior to his retirement. However, the concerned authorities delayed and released his gratuity and arrear pension amount on 04.07.2012. He died on 01.12.2015. The petitioner herein seeks interest to be paid on the arrear pension for the interim period of delay in receipt of the gratuity and arrear pension 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. No. 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 re-fixation of pay or pension wherein the Apex Court had held that relief may be granted in spite 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 both 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 and arrear pension calculated from 01.06.2011 till the date of payment. Such payment is to be made within a period of eight weeks from the date of communication of this order.

The writ petition is disposed of, however, no order as to costs.

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

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

(Rajarshi Bharadwaj, J.)