

20.01.2021
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W.P.A. No. 1166 of 2021

Jyotsna Rani Koley
Vs.
The State of West Bengal & ors.

Mr. Biswajit Mal
... For the petitioner

Affidavit of service filed in court today is taken on record.

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

The petitioner's husband was an Assistant Teacher of a Primary School. The petitioner retired from service on 31.10.1997 and died on 02.04.2003. The first pension payment order was issued on 22.02.1999. Under the ROPA Rules, 1998 there was revision of the pensionary and gratuity amount payable to the petitioner. The revised pension payment order was issued on 31.08.2001 and the gratuity amount was disbursed on 31.12.2001 in terms of ROPA, 1998. The petitioner claims interest on delayed payment of the revised gratuity amount.

I have heard the learned counsel for the parties and I have considered the orders passed by this court in similar facts. It is settled law that retired employee is entitled to some amount of interest on delayed payment of gratuity 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 dated October 25, 2017 passed in W.P. No. 17557 (W) of 2017 (Narayan Chandra Saha Vs. State of West Bengal & Ors.) wherein a co-ordinate Bench of this Court had relied upon a 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 of 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 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 petitioner @ 8% per annum on the revised gratuity amount calculated on and from 01.04.1998 till actual date of payment.

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

The writ petition is, thus, disposed of.

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.)