

20.01.2021
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Sl. 400
Ct. 15

W.P.A. 1752 of 2021

**Biva Rani Khan
Vs.
The State of West Bengal & Ors.**

Mr. Banshi Badan Maity
.....For the Petitioner

Affidavit-of-service filed in Court today is 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 an assistant teacher of a Primary School, South 24 Parganas and he retired from service on 28.02.1998 and died on 15.04.2011. The first pension payment order was issued on 16.09.1999. 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 31.03.2002 and the revised gratuity amount was disbursed on 02.09.2003 in terms of ROPA, 1998. The petitioner claims interest on delayed payment of the revised gratuity amount.

I have heard learned counsel for both 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 in W.P. 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. Tarsem 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 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 @ 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.

Since no affidavits have been invited, the allegations contained in the writ petition are deemed not to have been admitted by the respondents.

This writ petition is, accordingly, disposed of. There will be no order as to costs.

Urgent photostat certified copy, if applied for, be given to the parties on urgent basis.

(Rajarshi Bharadwaj, J.)