

12.02.2021
JKS
Sl. 203
Ct. 15

W.P.A. 3450 of 2021

Anubha Brahmachari (Banerjee)
Vs.
The State of West Bengal & Ors.

Mr. Sudipta Maiti

.....For the Petitioner

Mr. Kshetra Prasad Mukhopadhyay

...For the State

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 was a Head Teacher of a Primary School. The petitioner retired from service on 31.12.2009. The first pension payment order was issued on 23.12.2009. Under the ROPA Rules, 2009 there was revision of the pensionery and gratuity amount payable to the petitioner. The revised pension payment order was issued on 20.03.2012 and the revised gratuity and arrear pension amount was disbursed on 30.04.2012 in terms of ROPA, 2009. The petitioner claims interest on delayed payment of the revised gratuity and arrear pension 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 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. 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 and arrear pension amount calculated on and from 01.01.2010 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.

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

(Rajarshi Bharadwaj, J.)