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12.02.2021

WPA 3588 of 2021

Nilima Bera
Vs
The State West Bengal & Ors.

Mr. Goutam Kr Maity
... For the Petitioner.
Mr. Ejaz Hossain
...For the State

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

The husband of the petitioner was an approved Assistant Teacher of a Primary School who retired on 30.04.1998. The first pension payment order was issued on 06.02.2002. 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 03.01.2003 and the revised arrear pension and revised gratuity amount was disbursed on 22.03.2003 in terms of ROPA, 1998. The petitioner claims interest on delayed payment of the initial and revised arrear pension and revised 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 coordinate Bench had relied upon the Supreme Court judgment in the case of Union of India vs. Tarmen Singh, reported in (2008) 8 SCC 648 on the issue of limitation relating to payment or refixation 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 the 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 revised gratuity and revised arrear pension amount calculated on and from 01.05.1998 till the date of actual payment.

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

This writ petition is, thus, disposed of.

Since, no affidavit-in-opposition has been called for, the allegations made in the writ petition are deemed to have not been admitted by the respondents.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties, on priority basis.

(Rajarshi Bharadwaj, J.)

