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12.02.2021

WPA 3635 of 2021

**Md. Golam Aziz Sardar
Vs
The State West Bengal & Ors.**

Mr. Bansi 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 retired from service on 31.01.1997 from the concerned school. The first pension payment order was issued on 29.11.2001. Under the ROPA Rules, 1998 there was revision of the pensionary and gratuity amount and arrear pension amount and payable to the petitioner. The revised pension payment order was issued on 30.12.2002 and the revised gratuity amount was disbursed on 27.08.2003 in terms of ROPA, 1998 belatedly. The petitioner claims interest on delayed payment of the 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 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 within eight weeks from the date of communication of this order to the concerned authorities.

This writ petition is, thus, disposed of.

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

(Rajarshi Bharadwaj, J.)