

05.03.2021
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Sl. 112
Ct. 15

WPA 4575 of 2021

**Saikat Pushilal
Vs.
The State of West Bengal & Ors.**

Ms. Sudipa Biswas
.....For the Petitioner

Mr. Somraj Dhar
..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's wife was appointed as an Assistant Teacher of a Primary School. The petitioner's wife retired from service on 29.02.2008. The petitioner's wife died on 07.10.2018. The first pension payment order was issued on 14.02.2008. Under the ROPA Rules, 2009 there was revision of the pensionary and gratuity amount payable to the petitioner. The revised pension payment order was issued on 20.10.2010 and the revised gratuity amount was disbursed on 01.04.2011 in terms of ROPA, 2009. 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 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 above and after hearing the learned Counsel for the petitioner, 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 calculated from 01st June, 2009 till actual date of 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 disposed of, however, no order as to costs.

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.)