

05.03.2021
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Sl. 271
Ct. 15

WPA 5072 of 2021

**Arati Rani Ghosh
Vs.
The State of West Bengal & Ors.**

Mr. Rajesh Kumar Shah

.....For the Petitioner

Sk. Jaynal Abedin

....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 husband was an Assistant Teacher of a Primary School. The petitioner's husband retired from service on 30.04.1999. The petitioner's husband died on 02.01.2007. The first pension payment order was issued on 02.06.2000. 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 27.12.2001 and the revised gratuity as well as arrear pension amount was disbursed on 21.01.2002 in terms of ROPA, 1998. The petitioner claims interest on delayed payment of the revised 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 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 writ petitioner @ 8% per annum on the revised gratuity and arrear pension amount calculated on and from 01.05.1999 till the date of actual payment.

Such payment is to be made within 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-in-opposition is called for, the allegations made in the writ petition are deemed to have been admitted by the respondents.

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

(Rajarshi Bharadwaj, J.)