

5.3.2021
347,ct.15
sk

W.P.A.5274 of 2021
Usha Rani Bera
Vs.
The State of West Bengal & Ors.

Mr. Tirthankar
... for the Petitioner.

No one appears for the State when the matter is called on for hearing.

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

The husband of the petitioner was an Assistant Teacher of a Primary School, who retired from service on 31.03.1997 and died on 30.12.2020. The husband of the petitioner had completed all pension related formalities and revised pension payment order (ROPA-1998) was issued on 23.01.2002. However, the concerned authorities delayed and released revised gratuity and family pension amount on 23.04.2004. The petitioner herein seeks interest to be paid on the revised gratuity amount for the interim period of delay in receipt of the arrear family 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.No. 17557(W) of 2017(Narayan Chandra Saha Vs. State of West Bengal & Ors.)** wherein a co-ordinate Bench of this court had relied upon a 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 both 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 writ petitioner @ 8% per annum on the revised gratuity amount (ROPA-1998) the calculated from the date of issuance of the notification (ROPA-1998) till the date of payment.

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

The writ petition is disposed of, however, no order as to costs.

Since no affidavits have been invited, the allegations contained in the writ petition are deemed not have been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Rajarshi Bharadwaj, J.)