

12.03.2021.

W.P.A. 5815 of 2021

Rabea Bibi Vs The State West Bengal & Ors.

**Mr. Banshi Badan Maity
... For the Petitioner.**

**Ms. Sujata Ghosh
... For the State.**

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

The petitioner's husband was appointed as an Assistant Teacher of a Primary School who retired from service on 31.10.2001 and died on 23.11.2008. The petitioner's husband had completed all pension-related formalities prior to his retirement. The pension payment order was issued on 20.12.2002. However, the concerned authorities delayed and released gratuity and arrear pension on 04.02.2005. The petitioner herein seeks interest to be paid on the gratuity amount for the interim period of delay in receipt of the 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 dated October 25, 2017 passed 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 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 gratuity and arrear pension amount calculated from 01.11.2001 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 being W.P.A. 5815 of 2021 is disposed of without, 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 certified website copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Rajarshi Bharadwaj, J.)

