

325 19.03.2021.
ab
Ct. 15

W.P.A. 7408 of 2021

Kanailal Mandal Vs The State West Bengal & Ors.

Mr. Goutam Kumar Maity
... For the Petitioner.

Mr. Kshetra Prasad Mukhopadhyay
... For the State.

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

The petitioner was an approved Assistant Teacher of a Primary School who retired on 30.04.2009. The first pension payment order was issued on 30.09.2009 and first/initial gratuity amount was disbursed on 12.11.2009. 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 30.09.2013 and the revised gratuity amount was disbursed on 30.12.2013 in terms of ROPA, 2009. The petitioner claims interest on delayed payment of the initial and revised arrear 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. No. 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 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 first/initial gratuity amount calculated on and from 01.05.2009 and revised gratuity amount calculated on and from 01.06.2009 till the date of actual 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, thus, disposed of.

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.)