

04.01.2021.

W.P.A. 11160 of 2020

Swapna Mahata & Ors. Vs The State West Bengal & Ors.

Mr. Biswajit Mal

... For the Petitioners.

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

The petitioner no. 1's husband was an Assistant Teacher of a Primary School who died-in-harness on 04.03.2017. The petitioner no. 1 had completed all pension-related formalities after death of her husband. However, the concerned authorities delayed and released gratuity amount on 30.08.2018. The petitioners herein seek 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 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 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 petitioner @ 8% per annum on the gratuity amount calculated from 05.03.2017 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 without, however, any 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.)