

25.01.2021
Item No.18
AP/ss

WPA 12 of 2021

Mrinal Kanti Saha Roy

-Vs.-

The State of West Bengal & Ors.

(Through Video Conference)

Mr. Debajit Kundu

.. ... for the petitioner

The writ petitioner is the husband of an Assistant Teacher in a high school namely Smt. Mira Saha Roy who retired on superannuation on 30th November, 2007 and subsequently died on 14th March, 2017. Due to retirement of the wife of the writ petitioner herein Pension Payment Order was issued in favour of the deceased wife on 7th January, 2009 thereby retiral dues were released in favour of the deceased wife.

The petitioner being the husband of the deceased teacher has filed this present writ petition claiming interest on gratuity due to delayed payment of retiral dues in favour of his deceased wife. The case has been made out that deceased teacher though retired on 30th November, 2007 but Pension Payment Order was issued on 7th January, 2009 and the retiral benefits were paid to the deceased teacher in the month of March, 2009. Therefore, the writ petitioner is entitled to receive interest on delayed payment of gratuity.

Though this Court expresses reservation with regard to grant of interest since the writ petitioner has approached this Court after a long time since the death

of the teacher on 14th March, 2017 who retired on 30th November, 2007, but while answering this point of delay the learned advocate relied upon one order dated 17th April, 2019 passed by a coordinate Bench on the writ petition being WP 4617(W) of 2019 (Nilima Barman Vs. The State of West Bengal & Ors.). In the said order of the coordinate Bench placing reliance upon the judgment of the Apex Court in the case of ***Union of India Vs. Tarsem Singh*** reported in **2008 (8) SCC 648** the interest was granted in favour of the spouse of the deceased teacher. The argument has also been made on behalf of the writ petitioner upon placing reliance on ***Tarsem Singh (supra)*** that it is the case of payment of interest on delayed payment of gratuity. Therefore, question of accruing third party interest does not arise. This is fit case where the principle enunciated by the Apex Court is applicable.

Considering the submissions made on behalf of the writ petitioner this Court finds it apposite to give direction upon the Director of Pension, Provident Fund & Group Insurance being the respondent No.2 and the Treasury Officer, Siliguri-II, being the respondent No.4 to pay interest to the writ petitioner at the rate of ₹8% per annum on the delayed payment of gratuity for the period from 1st December, 2007 till the date of actual payment of the amount to the pensioner within a period of eight weeks from the date of communication of the order.

Accordingly, the writ petition is disposed of, however, there shall be no order as to costs.

Since no affidavit is called for, allegations made in the writ petition are deemed to have been denied.

Urgent Photostat certified copy of this order, if applied for, be given to the parties after compliance of all necessary formalities.

(Saugata Bhattacharyya, J.)