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***CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE JURISDICTION
(Via Video Conference)***

W.P.A. 272 OF 2021

Kalpana Rani Sarkar

-vs.-

The State of West Bengal & Ors.

Mr. Debajit Kundu
Ms. Ujani Pal (Samanta)

....For the Petitioner.

Mr. Hirak Barman
Mr. Bikramaditya Ghosh.

....For the State.

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

The husband of the petitioner was an Assistant Teacher of a Primary School who died in harness on 07.04.2009. The pension payment order was issued on 22.12.2010. The arrear family pension and gratuity amount were disbursed on 28.02.2011 in terms of ROPA, 2009. The petitioner claims interest on delayed payment of the arrear family pension and 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. 17557 (W) of 2017 (Narayan Chandra Saha vs. State of West Bengal & Ors.) wherein a co-ordinate Bench had relied upon the Supreme Court judgment in the case of Union of India vs. Tarsem Singh, reported in (2008) 8 SCC 648 on the issue of limitation relating

to payment or refixation 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 arrear family pension and gratuity amount calculated on and from 08.04.2009 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.

With these observations, the writ petition is disposed of.

Since, no affidavit-in-opposition has been called for, the allegations made in the writ petition are deemed to have not been admitted by the respondents.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties, on priority basis.

(Shekhar B. Saraf, J.)