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W.P.A. 628 of 2020

Dayal Chandra Sarkar
Versus
State of West Bengal & ors.

Mr. Debajit Kundu,
Mr. Sitangshu Mallick
... for the petitioner.

Mr. Hirak Barman,
Ms. Bedashtuti Bose
... for the State.

Affidavit-of-service filed in Court today be taken on record.

The material facts of the case are admitted and hence I have not called for affidavits.

The petitioner was a Primary Teacher and retired from service 28th February, 2003. The grievance of the petitioner is that the arrear pension amount was disbursed to him only on 3rd August, 2015. The petitioner claims interest on delayed payment of the arrear pension.

I have heard learned counsel for the parties and considered the materials on record.

It is now well settled that if there is a delay in releasing the arrear pension to a retired employee or to the legal heir of a deceased employee, some amount of interest should be paid to compensate for the delay in releasing the benefits. The pensionary benefits or welfare measure meant to enable a retired employee or the dependants of a deceased employee to live a life of dignity. Hence, it is imperative and of utmost importance that such benefits are released to a retired employee or the legal heir of a deceased employee without any delay. If there is delay, interest at a reasonable rate is payable by way of compensation. This is not punitive but purely compensatory.

Although the point of delay or limitation has not been urged on behalf of the State, I deem it appropriate to address that issue briefly. The Limitation Act in terms does not apply to writ petitions. The Hon'ble Supreme Court in the case of ***Union of India Versus Tarsem Singh*** reported in ***(2008) 8 SCC 648*** has observed that if the issue relates to payment or refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. It is settled law that the right of a retired employee to get his retiral dues on the date of attaining superannuation is a valuable right which accrues in his favour on the date of his attaining superannuation. The retired employee is surely entitled to get some interest for such delayed payment.

In the present case, it was the bounden duty of the State to disburse the pension amount on the due date. If it has failed to do so and has released such amount after unexplained delay, it is obliged to pay interest to the retired employee. Pension is welfare provision aimed at maintaining the life of a retired employee and his/her dependents. This is compensatory in nature.

In view of the aforesaid, 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 at the rate of 9% simple interest per annum on arrear pension calculated on and from the due date of retirement till the actual date of payment.

The concerned officers/department shall start the process of disbursing the interest immediately on receiving a server copy of this order without waiting for the certified copy. At the time of payment of the interest amount, the petitioner shall produce the certified copy of the order. The payment has to be made within eight weeks from the date of receipt of the server copy from the petitioner and/or his/her advocate. In default of making payment of the amount within eight weeks, the respondent authorities shall be bound to pay interest @ 12 per cent simple interest per annum on the money payable from the date of retirement till the date of actual payment.

W.P.A. No. 628 of 2020 is, accordingly, disposed of.

There will be no order as to costs.

Urgent certified website copies of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.

(Moushumi Bhattacarya, J.)