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akb 18.02
2021
Ct. No. 2

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A. 669 of 2020

Kalpana Das

-Versus-

State of West Bengal & Ors.

Mr. Deborshi Dhar

...For the Petitioner

Mr. Subir Kumar Saha

Mr. Ankan Mitra

...For the State Respondents

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

2. The husband of the petitioner was an Assistant Teacher of a Primary School who retired from service on May 31, 2009. The first pension payment order was issued on 31.12.2006. 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 07.04.2012 and gratuity and the revised arrear pension amount was disbursed on 03.07.2012 in terms of ROPA, 2009. The petitioner claims interest on delayed payment of the revised gratuity and arrear pension amount.

3. Heard Counsel appearing on behalf of the petitioner and considered the orders passed by this Court in similar facts. It is settled law that retired employee is entitled to some amount of interest on delayed payment of gratuity and arrear pension.

4. 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 judgement in the case of Union of India Vs. Tarmen Singh, reported in (2008) 8 S.C.C. 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 inspite of delay as it does not affect the rights of the third party.

5. 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 @ 8% per annum on the revised gratuity and arrear pension amount calculated on and from June 1, 2009 till actual date of payment. Such payment is to be made within a period of eight weeks from the date of communication of this order.

6. This writ petition is disposed of.

7. Urgent photostat certified copy of this order, if applied for, be given to the parties, on compliance of necessary formalities.

(Shekhar B. Saraf, J.)