

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 3700 of 2022

**Mabud Hasan
-versus
State of West Bengal & Ors.**

**Mr. Subrata Ghosh.
...For the Petitioner.**

**Ms. Chaitali Bhattacharyya,
Ms. Sukla Das Chandra.
...For the State.**

The petitioner happens to be one of the children of a deceased teacher of a Madrasah. The teacher retired from service on 31st October, 1996. Provisional retiring gratuity amounting to Rs. 24,200/- was disbursed in his favour in September 2003.

The teacher was entitled to receive total gratuity amount of Rs. 99,000/-. The balance amount of Rs.74,800/- was due and payable to the deceased teacher.

The District Inspector of Schools (S.E.), Malda by an order dated 13th November, 2001 directed the Headmaster to rectify the basic pay to process the pension case of the teacher.

Prior to receiving his legal dues, the teacher expired on 24th May, 2014 and his wife also expired on 26th August, 2015.

The writ petitioner, being one of the children of the deceased teacher, approached this Court on an earlier occasion, praying for disbursing the balance gratuity which was due and payable to his father.

The aforesaid writ petition being W.P. 1717(W) of 2019 was considered and disposed of by this Court on 5th March, 2019 by directing the respondent authority to consider and dispose of the representation made by the petitioner for payment of retirement gratuity.

In compliance of the direction passed by the Court, the Director of Pension, Provident Fund and Group Insurance considered the matter and passed order in June 2019 directing the school authority to refix the pay of the deceased teacher as per the observation of the District Inspector of Schools and option exercised by the teacher in accordance with ROPA 1998 by making necessary correction in the service book and to resubmit the pension case of the deceased teacher to the Pension Sanctioning Authority within two weeks from the receipt of the order.

The concerned District Inspector of Schools was directed to finalize the pension case of the deceased teacher in accordance with law and to submit the same in the office of the DPPG within two weeks thereafter. The DPPG was to settle the submitted pension case of the deceased teacher within four weeks thereafter.

As no steps were taken by the Pension Sanctioning Authority and the School Authority in terms of the order passed by the Director, Provident Fund and Group Insurance, the heirs of the deceased teacher filed a representation before the District

Inspector of Schools (S.E.), Malda on 17th September, 2021 followed by a reminder on 6th December, 2021.

None of the representations have been answered.

The petitioner was compelled to approach this Court once again, for relief.

Learned advocate appearing for the State respondents hands over a copy of the instruction received from the District Inspector of Schools (S.E.), Malda.

It appears therefrom that the District Inspector of Schools (S.E.), Malda by a communication dated 18th December, 2020 to the Headmaster of the Madrasah intimated that the dues of the deceased teacher cannot be settled in view of non-availability of certain papers.

The documents which were wanting are 1) nominee or legal heir certificate of the deceased teacher. Without the nominee or the legal heir certificate, gratuity cannot be sanctioned in terms of para 22 of DCRB Rule, 1981. 2) Copy of approval of appointment of the deceased teacher and the acquittance roll of the deceased teacher from inception of his service to the date of retirement.

The District Inspector of Schools requested the Headmaster of the Madrasah to submit the aforesaid papers within seven days for taking further action in the matter.

The District Inspector of Schools mentioned in the said letter that already a long time has lapsed to comply the order passed by the DPPG.

It was further mentioned that a contempt case was pending and no excuse either from his end or from the petitioner will be entertained.

It appears from the aforesaid communication of the District Inspector of Schools dated 18th December, 2020 that intimation was sent to the Headmaster of the Madrasah to forward the wanting documents. Due to non-furnishing of the aforesaid documents the gratuity could not be disbursed till date.

It was the duty and responsibility of the District Inspector of Schools to follow up the matter with the Headmaster of the Madrasah so that the legal due of the deceased teacher was duly disbursed in favour of his heirs.

No steps appear to have been taken by the District Inspector of Schools for a considerable period of time.

As it has already been admitted by the respondent authorities that the teacher was entitled to receive gratuity but the same could not be disbursed in favour of the heirs of the deceased teacher due to want of vital papers, accordingly, the District Inspector of Schools (S.E.), Malda is directed to pursue the matter with the Headmaster of the Madrasah. If required, the District Inspector of Schools shall collect the documents from the office of the Headmaster of the said Madrasah to ensure that the legal dues payable to the heirs of the deceased teacher is disbursed at the earliest.

The District Inspector of Schools shall intimate the petitioner the documents which are required to be submitted for the purpose of disbursal of the gratuity.

The respondent No. 4, the Director of Pension, Provident Fund and Group Insurance is directed to supervise the entire process to ensure that the payment is made in favour of the heirs of the deceased teacher at the earliest, but positively within a period of four months from the date of communication of a copy of this order.

As the deceased teacher was entitled to receive retirement gratuity immediately after his retirement and the same was not paid in proper time, accordingly, the balance gratuity shall be released in favour of the heir(s) of the deceased teacher along with interest @7% per annum to be calculated on and from the due date till the date of actual payment.

The instruction given by the District Inspector of Schools (S.E.), Malda is retained with the records.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)