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13.05.2022
Ct. No.24
BM

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 5085 of 2022

Nityananda Mahata
-versus
The State of West Bengal & Ors.

Mr. Sudip Sarkar

... for the Petitioner.

Mr. Debasish Chattopadhyay

... for the State

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

None appears on behalf of the State respondents in spite of service.

The petitioner was a Primary School Assistant Teacher who retired from service on 28.02.2018. The first pension payment order was issued on 11.07.2018 and the arrear pension was disbursed on 01.09.2018. Under the ROPA Rules, 2019 there was revision of the pension and gratuity amount payable to the petitioner. The revised pension payment order was issued on 19.08.2021 and the arrear revised pension was disbursed on 21.08.2021 in terms of ROPA 2019. The petitioner claims interest on delayed payment of gratuity and arrear pension as well as revised gratuity and revised arrear pension.

I have heard learned counsel for the petitioner and considered the orders passed by this court in similar facts.

It is settled law that the right of a retired employee to get his retiral dues as and when the same becomes due and payable. If payment of the retiral dues is delayed 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 and gratuity are welfare provisions 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 concerned Treasury Officer to pay interest to the writ petitioner at the rate of 5% per annum on the gratuity and arrear pension as well as revised gratuity and revised arrear pension calculated on and from 14.02.2020 till the date of actual payment, **provided the delay caused was not attributable to the petitioner.**

The Treasury Officer shall not be obliged to pay interest if the delay was caused on account of any lapse on the part of the teacher.

Such payment is to be made within eight weeks from the date of communication of the certified copy of this order to the concerned authorities.

The concerned respondent authority is directed to take appropriate steps in accordance with law against

the erring officer(s) for whose fault there has been delay in releasing the retirement benefit to the petitioner.

Since no affidavit in opposition has been invited, the allegations contained in the writ petition are deemed not be admitted.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)