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01.02.2022
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**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side
(Via Video Conference)**

W.P.A. 8085 of 2021

**Umashashi Mondal
-versus
The State of West Bengal & Ors.**

**Mr. Goutam Kumar Maity.
...For the Petitioner.**

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

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

The husband of the petitioner was an Assistant Teacher and retired from service on 31.10.1994. Pension Payment Order was issued in his favour on 22.06.2001 and the gratuity and arrear pension amount was disbursed in his favour on 15.09.2001.

After the death of the teacher on 28.05.2008, the petitioner being the widow, has approached this Court praying for interest on account of delayed payment of gratuity and arrear pension amount.

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 on the date of attaining superannuation is a valuable right which accrues in his

favour on the date of his attaining superannuation. If payment of gratuity and pension is delayed the retired employee is surely entitled to get some interest for such delayed payment.

In the present case, it is noticed that the pensioner was alive for more than seven years after the Pension Payment Order was issued in his favour. The pensioner never raised any issue or claimed interest on account of delayed payment of gratuity and arrear pension. The same implies that the pensioner waived his right to claim interest. It is not open for the widow to raise any claim with regard to delayed payment of gratuity and arrear pension which was payable in favour of her husband.

The Hon'ble Supreme Court in Union of India –vs- Tarsem Singh reported in (2008) 8 SCC 648 clearly laid down that in so far as consequential relief of recovery of arrear for a past period is concerned the relief shall be restricted only to a period of three years prior to the filing of the writ petition or from the date of demand made by the petitioner.

In the instant case, neither the petitioner nor her husband raised any demand before the respondents praying for release of interest on account of delay in making payment. The petitioner directly approached this Court praying for interest, that too, long after the death of the pensioner.

In view of the above, the Court is not inclined to exercise jurisdiction in the matter and grant any relief in favour of the petitioner.

The writ petition is dismissed.

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

(Amrita Sinha, J.)