17.06.2022
ct. no. 13
sl. 307
AP

In The High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A 10713 of 2022

Pranab Kumar Das
-versus
The State of West Bengal & Ors.

Mr. Kanailal Samanta
...For the Petitioner.

The affidavit of service filed by the learned Advocate for the petitioner in Court today be kept on record.

The petitioner retired from service on 31.08.2017. The pension payment order was issued on 02.11.2017. Revised pension payment order was issued on 30.01.2021. Arrear gratuity was released but interest due to delayed payment has not been paid and as such petitioner prayed for interest on delayed payment of pensionary benefit and gratuity.

It is now well settled that if there is a delay in releasing the pensionary benefits 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 are welfare measures 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 **Tarmen 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. Further, pension is no more considered to be a bounty to be handed out by the State at its whim. An employee has a statutory right to receive pension upon retirement. If payment of such pension is delayed, the retired employee is surely entitled to get some interest for such delayed payment.

The Rule that the High Court may not enquire into belated and stale claim is not a Rule of Law, but one of practice based on sound and proper exercise of discretion. The principle on which the relief to a party is denied on the ground of laches or delay is that the right which have accrued to others by reason of delay in approaching the Court should not be allowed to be disturbed. 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. This is compensatory in nature. Pension and gratuity are aimed at maintaining the life of a retired employee and his/her dependents, these are welfare provisions and even if there is delay on the part of a retired employee to approach the Court claiming interest on delayed payment of pension, the delay per se should not be the ground for rejection of the writ petition. No third party interest will be affected by a direction on the State to compensate the retired employee for delayed payment of pension paying interest at a reasonable rate.

The petitioner has retired from service on 31.08.2017. Revised pension was issued on 30.01.2021. But arrear pension and gratuity was paid but no interest was paid and as such the petitioner is entitled to get interest for delayed payment for the period from 01.01.2020 to actual disbursement of the same.

In the present case, the petitioner cannot state with any certainty the date of application for pension. Hence, in view of the aforesaid and also having regard to the decision of the Hon'ble Supreme Court in the case of **D.D. Tewari (Dead) through legal representatives Vs.**

Uttar Haryana Bijli Vitran Nigam Limited & ors., (Reported in **AIR 2014(SC) 2861)** I direct the Treasury Officer, Tamluk to pay to the petitioner interest at the rate of 9% per annum on the amount released in favour of the petitioner by way of pensionary benefit on and from January 01, 2020 till the date of issuance of Revised Pension Payment Order.

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

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

With the aforesaid observations, the writ petition is disposed of.

There will be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, on priority basis.

(Rajasekhar Mantha, J.)