

29.08.2022.
Court No. 13
Item no. 541.
sp

W.P.A. No. 13018 of 2022

Jaya Das & Ors.
Versus
The State of West Bengal & Ors.

Mr. Sakti Pada Jana,
Mr. Subhajyoti Das

..For the petitioner.

1. Affidavit-of-service filed in Court today be kept with the record.
2. The petitioners are the legal heirs of the deceased teacher. The husband of the petitioner was an Assistant Teacher who died-in-harness on 22.11.2017. The grievance of the petitioners is that the gratuity and arrear pension amount was disbursed only on 28.12.2018. the petitioners claim interest on delayed payment of the pension and gratuity amount and also revised gratuity as per ROPA, 2019.
3. It is now well-settled that the pensionary benefits are to be released to the retired employee or his heirs immediately upon retirement/death. If there is a delay in releasing the pensionary benefits, the retired employee is entitled to interest.
4. Various orders have been passed by this Court holding that the retired employee is to receive interest

on delayed payment of the pensionary benefits. Some of such orders have been placed before me.

5. 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 thereof does not apply to the writ petitioners. The Hon'ble Supreme Court in the case of ***Union of India - Vs. - Tarmen Singh*** reported in **(2008) 8 SCC 648** has observed that if the issue relates to payment or re-fixation 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, arrear 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 arrear upon retirement. If payment of such arrear is delayed, the retired employee is surely entitled to get some interest for such delayed payment.

6. 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 arrear 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 arrear 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 arrear, 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 arrear by paying interest at a reasonable rate.

7. Having heard the learned counsel for the parties and having regard to the orders of this Court passed in other matters, 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 at the rate of 8% per annum on the death gratuity and arrear pension amount calculated from the next date of death of the said employee till the actual date of payment. Such payment is to be made within a period of eight weeks from the date of communication on this order. The

respondents are also directed to pay interest to the petitioners @8% per annum on the revised gratuity in terms of revised PPO dated 23.07.2021 as per ROPA, 2019 calculated on and from 14.02.2020 till the date of actual payment.

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

9. The instant writ petition is, accordingly, disposed of.

10. There will be no order as to costs.

11. Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.

(Rajasekhar Mantha, J.)