

30.11.2022

List – D/L.

Sl No.50.

Mithun

Ct.No.12.

WPA 15728 of 2021

Kumari Rekha Rani Chakraborty

Vs.

Union of India & Ors.

Mr. Ramdulal Manna, Adv.

Mr. Sabyasachi Mukherjee, Adv.

Mr. Sayan Mukherjee, Adv.

...for the petitioner.

Mr. Debapriya Samanta, Adv.

...for respondent Nos.1 to 4.

Mr. Surajit Auddy, Adv.

Mr. S. Auddy, Adv.

Ms. Snigdha Dhar, Adv.

...for respondent Nos.5 & 6.

In the instant application under Article 226 of the Constitution of India, the writ petitioner being the dependent daughter of a freedom fighter has sought for a direction upon the Union of India for releasing the interest on pension @ 10% p.a. for the period of February, 2015 to August, 2021 on account of the delayed payment of such pension for the month of February, 2015 to July, 2021.

In course of his submission, Mr. Manna, learned Advocate for the writ petitioner, draws attention of this Court to the instant writ petition as well as to its annexures. It is contended that for some reasons or other, the respondent No.1 stopped such pension as

payable in favour of the writ petitioner. However, on receipt of the representation from the writ petitioner, the Union of India i.e., the respondent No.1 under cover of their letter dated 7th April, 2016 directed the respondent No.5 to release pension in favour of the writ petitioner with effect from 01.01.2016 after completion of all the formalities.

It is contended further that even after issuance of such letter as referred to above, the respondent No.1 for the reasons best known to them did not take any positive steps for release of such pension in favour of the writ petitioner which is why the petitioner through his learned Advocate under cover of his letter dated 27.01.2021 issued a notice to the respondent No.1 for release of the pension as communicated vide letter dated 7th April, 2016 and that since the respondent No.1 failed and neglected to comply with the requisition of such notice, the writ petitioner herein had to file a writ petition being WPA 5959 of 2021 before this Hon'ble Court.

It is contended that by an order dated 08.07.2021 as passed in WPA 5959 of 2021, this Hon'ble Court directed the respondents herein to release the pension and accordingly, the pension of the writ petitioner was released and she was also given the arrear pension for the period of February, 2015 to July, 2021 i.e. for the

period, the pension of the writ petitioner remained stopped.

Drawing further attention of this Court to the order dated 08.07.2021 as passed in WPA No. 5959 of 2021, it is contended that this Hon'ble Court while disposing the said writ petition had kept open the right of the writ petitioner towards the interest on the delayed payment of pension.

It is argued on behalf of the writ petitioner that since the pension of the writ petitioner was stopped at the instance of the respondent on account of their own fault and not at the fault of the writ petitioner, the writ petitioner is entitled to the interest for the period for which her pension was stopped unlawfully.

Opposing the contention of the writ petitioner, learned Advocate for the respondent Nos.1 to 4 i.e. Union of India submits that since the aforementioned pension Scheme is a benevolent scheme considering the valuable sacrifice made by the freedom fighters of our Country, such pension cannot be claimed as a matter of right which is contrary to the policy of the Union of India.

It is thus argued that based on such policy, the writ petitioner cannot claim any interest for the period, her pension was withheld and/or stopped.

Learned Advocate for the respondent Nos.5 & 6/ the Bank, contends that in respect of the matter in dispute, the bank has got nothing to do since the bank has not received either original or duplicate Pension Payment Order (P.P.O.) from the respondent Nos.1 to 4.

In support of his contention, he places his reliance upon the photocopy of the letter dated 13.08.2021 which was handed over to the Court in course of hearing after serving the copies of the same to the learned Advocates of all sides.

On perusal of the entire materials on record as placed before this Court and after hearing the learned Advocate for the parties, it appears to this Court that sufficient materials have been placed to substantiate that the pension of the present petitioner was withheld for some reasons or other by the respondent Nos.1 to 4 but under no stretch of imagination, it can be said that such stoppage of pension occurred on account of the fault of the present petitioner. It reveals to this Court further that the respondent Nos.1 to 4 though realised their mistake which is evident from their letter dated 07.04.2016, even thereafter they did not send the P.P.O. to the respondent Nos.5 & 6 /bank for which the present writ petitioner had to approach this Hon'ble Court for releasing her pension.

In view of such, this Court finds that the respondent Nos.1 to 4 cannot escape their liability for stoppage of the pension of the writ petitioner as well as for the delayed payment of the arrear pension.

For the aforesaid reasons, this Court considers that the present writ petitioner is equally entitled to the interest for the period February, 2015 to July, 2021.

Accordingly, the present writ petition is allowed directing the respondent Nos.2 & 3 to release and pay interest in favour of the present writ petitioner @ Rs.7% p.a. over her arrear pension for the period February, 2015 to July, 2021.

It is further ordered that such interest as awarded by this Court shall have to be credited in the pension account of the writ petitioner within one month from the date of passing of this order.

It is further directed that the respondent Nos.2 & 3 shall send the P.P.Os. to the writ petitioner as well as to the respondent Nos.5 & 6/the bank also within one month from the date of passing of this order, if not sent in the meantime.

With the aforementioned observations, the writ petition is **disposed of**.

There will be no order as to costs.

All parties to act on the server copy of the order duly downloaded from the official website of this Hon'ble High Court, Calcutta.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Partha Sarathi Sen, J)