

22.08.2022.
Court No. 13
Item no. 646.
sp

W.P.A. No. 16108 of 2021

Nayema Khatun
Versus
The State of West Bengal & Ors.

Mr. Anirban Sarkar

..For the petitioner.

Mr. Susanta Pal

...for the State

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

The petitioner is the wife of late Md. Entaj Ali. Her husband was an Assistant Teacher in a High School who died-in-harness on February 13, 2000. The PPO was issued to the petitioner on August 29, 2005. The petitioner has been receiving family pension on account of her husband. She claims interest on account of delayed payment of terminal benefits of her husband.

Counsel for the State would place reliance on a decision of the Hon'ble Supreme Court in the case of ***New Delhi Municipal Council Vs. Pan Singh & Ors.*** reported in ***AIR 2007 Supreme Court 1365.***

Reference is made to paragraph 19 of the said decision where reference has been made to an earlier decision of the Hon'ble Supreme Court in the case of ***Shiv Dass Vs. Union of India & Ors.*** reported in ***2007 AIR SCW 1487***. The principles to be applied in addressing delay in approaching Court for seeking any service benefits, were discussed and set out.

In the said paragraph, extracted from the ***Shiv Dass decision (supra)***, it is mentioned that pension is a cause of action that accrues continuously from month to month and as long as the same becomes payable. It is further held that the delay in filing pension, should be taken into consideration while awarding any relief for the same, on a case to case basis.

This Court notices while the husband/employee of the petitioner died-in-harness in the year 2000, pension was released to her only in the year 2005. Pension becomes the sole source of income of employee or his family. Any delay in receiving pension, could put a serious question mark on the sustenance and continue existence of the family.

It is indeed true that the family has been receiving pension since the year 2005 albeit after a delay of 5 years. Such family is required to be

compensated for the failure on the part of the State to pay terminal dues within time. The interest that is payable on account of delayed release of terminal benefits, is a right and an absolute entitlement that would go to partially alleviate the sufferings of the family by reason of delayed receipt of lawful entitlement of pension. In the instant case the delay is 5 years. The miseries, the family of the deceased was required to face for 5 years clearly out weigh, the delay in filing the writ petition in the instant case for the first time in 2021. The general principles of law as laid in the case of the ***Shiv Dass decision (supra)***, must be applied to support the claim for interest for delayed receipt of terminal benefits on account of petitioner's husband's service.

For the reasons stated hereinabove, the petitioner shall be entitled to receive interest @6% per annum from the date of death of the husband of the petitioner i.e. February 13, 2000, till August 29, 2005, on the arrears of pension from the year 2000 to 2005 and on the total amount of gratuity from February 13, 2000 till August 20, 2006.

Let the aforesaid sums be paid to the writ petitioner, within a period of two months from the date of receipt of a copy of this order, into

which pension is being credited. In default, the rate of interest shall stand increased to 7% per annum.

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.)