

22.04.2022
SL No. 344
Court No. 24
GB

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 19990 of 2021

**Nitai Chand Gayen
Vs
The State of West Bengal & Ors.**

Mr. Tamaltaru Panda
... for the petitioner

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

None appears on behalf of the State respondents.

The petitioner was an Assistant Teacher of a primary school. He retired from service on 31.01.2003. The Pension Payment Order was issued in favour of the petitioner on 26.02.2004 and the petitioner received the gratuity and arrear pension amount on 09.08.2004.

The petitioner prays for interest on account of the delayed payment of gratuity and arrear pension.

In the present case it is noticed that the petitioner has approached this Court long after the Pension Payment Order was issued and payment made in accordance with the same.

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 the petitioner did not raise 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 PPO was issued.

The fact that the teacher never raised any issue or made any prayer for grant of interest on account of delayed payment of his termination benefits implies that the teacher waived his right to receive interest.

There is no explanation given with regard to the inordinate delay in filing the writ petition.

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.)