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22.04.2022
d.p.

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

W.P.A. 20090 of 2021

**Swapana Dome
-versus
The State of West Bengal & Ors.**

**Mr. Sudipta Maiti.
...For the Petitioner.**

**Mr. Rajendra Chaturvedi.
...For the State.**

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

The petitioner's husband was an Assistant Teacher and retired from service on 31.12.2008. He died on 03.06.2017. The first pension payment order was issued on 22.12.2008 and the arrear pension was disbursed on 11.03.2009. Under the ROPA Rules, 2009 there was revision of the pension and gratuity amount payable to the deceased teacher. The revised pension payment order was issued on 03.01.2012 and the arrear revised pension was disbursed on 31.03.2012 in terms of ROPA 2009.

The petitioner prays for interest on account of the delayed payment of the terminal benefits.

In the present case, it is noticed that the petitioner has approached this Court long after the Pension Payment Order was issued in favour of her

husband 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.

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

The fact that the teacher was alive after receiving the Pension Payment Order and he 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.

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.)