

350
27.04.2022
S.H.

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

W.P.A. 20534 of 2021

**Madhabi Banik
-versus
The State of West Bengal & Ors.**

**Mr. Tamal Taru Panda
...For the Petitioner.**

**Md. Mansoor Alam
... For the State.**

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

The husband of the petitioner was a Primary School Assistant Teacher who retired from service on 31.01.1998. He died on 28.01.2011. The Pension Payment Order was issued in favour of the husband of the petitioner on 10.10.2002 and the petitioner received the gratuity and arrear pension amount on 17.04.2003.

The petitioner, being the widow, 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 terminal 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.)