

01
18.02.2022
d.p.

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

W.P.A. 320 of 2022

**Arun Kumar Ojha
-versus
The State of West Bengal & Ors.**

**Mr. Debjit Kundu.
...For the Petitioner.**

None appears on behalf of the State respondents.

The petitioner was an approved Head Teacher and retired from service on 30.04.2002. Pension Payment Order was issued in his favour on 03.03.2003 and the gratuity amount was disbursed to him on 01.02.2005. The petitioner claims interest on delayed payment of the gratuity amount.

I have heard learned counsel for the parties and considered the orders passed by this court in similar facts.

It is settled law that the right of a retired employee to get his retiral dues on the date of attaining superannuation is a valuable right which accrues in his favour on the date of his attaining superannuation. Further, gratuity and pension are no more considered to be a bounty to be handed out by the State at its whim. An employee has a statutory right to receive gratuity and pension upon retirement. If payment of such gratuity and pension is delayed the retired employee is

surely entitled to get some interest for such delayed payment. This is compensatory in nature.

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 act of the petitioner implies that he waived his right to receive interest on account of such delayed payment. The petitioner cannot be permitted to make a prayer for grant of interest at such a belated stage.

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.)