29.07.2022
Court No.13
Item No.4
AP

HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI

WPA 2007 of 2022

TARAPADA PAUL
Vs.
THE STATE OF WEST BENGAL AND ORS.

Mr. Sakti Pada Jana
Mr. Subhajyoti Das
... For the Petitioner.

Ms. Sangeeta Roy
... For the State.

Affidavit-of-service filed in Court today be kept with the record.

The material facts of the case are admitted and hence I have not called for affidavits.

The petitioner was appointed as an Assistant Teacher of a concerned school and he retired from service on 30.06.2009. The first pension payment order was issued on 13.10.2009 and the arrear pension was disbursed in time. Under the ROPA Rules 2009 there was revision of the pensionary and gratuity amount payable to the petitioner. The revised pension payment order was issued on 31.07.2012 and the arrear pension was disbursed on 12.11.2012 in terms of ROPA 2009. The petitioner claims interest on delayed payment of the revised arrear pension.

I have heard learned counsel for the petitioner and I have considered the orders passed by this court in similar facts. It is settled law that retired employee is entitled to some amount of interest on delayed payment of arrear pension.

Although the point of delay or limitation has not been urged on behalf of the State, I deem it appropriate to address that issue briefly. The Limitation Act in terms does not apply to writ petitions. The Hon'ble Supreme Court in the case of Union of India Versus Tarmen Singh reported in (2008) 8 SCC 648 has observed that if the issue relates to payment or refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. 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 is no more considered to be a bounty to be handed out by the State at its whim. An employee has a right to receive pension upon retirement. If payment of such pension is delayed, the retired employee is surely entitled to get some interest for such payment.

The Rule that the High Court may not enquire into belated and stale claim is not a Rule of Law, but one of practice based on sound and proper exercise of discretion. The principle on which the relief to a party is denied on the ground of latches or delay in approaching the Court should not be allowed to be disturbed. In the present case, it was the bounden duty of the State to disburse the pension amount on the due date. If it has failed to do so and has released such amount after unexplained delay, it is obliged to pay interest to the retired employee. This is compensatory in nature. Pension and gratuity are aimed at maintaining the life of a retired employee and his/her dependants, these are welfare provisions and even if there is delay on the part of a retired employee to approach claiming interest on delayed payment of pension, the delay per se should not be the ground for rejection of the writ petition. No third party interest will be affected by a direction on the State to compensate the retired employee for delayed payment of pension by paying interest at a reasonable rate.

In view of the aforesaid, I direct the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal also the concerned Treasury Officer to pay interest to the petitioner @ 8% per annum on the revised arrear pension and revised gratuity calculated from June 1, 2009 till actual date of payment, that is, 12.11.2012.

Such payment is to be made within a period of eight weeks from the date of communication of this order.

This writ petition is accordingly disposed of without however, any order as to costs.

Since no affidavit is called for, the allegations made in the writ petition are deemed to have been denied by the respondents.

All parties are to act on the Website Copy of this Order.

(Rajasekhar Mantha, J.)