30.08.2022
Sl. No.14
ap

IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 2409 of 2022

Binay Kumar Mukhopadhyay
-Vs-
The State of West Bengal & Ors.

Mr. Sakti Pada Jana,
Mr. Subhajyoti Das.
… … for the petitioner
Md. Mansoor Alam.
...for the State.

Affidavit of service filed in court today is kept with the record.

The petitioner was an 'Assistant Teacher' of a High School, who retired on 31.12.2006. The first pension payment order was issued on 26.12.2006 and disbursed on 26.12.2006. 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 07.02.2013 and the gratuity was disbursed on 31.05.2013 in terms of ROPA, 2009. The petitioner claims interest on delayed payment of the revised gratuity amount.

I have heard the 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 and revised gratuity.

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 – Vs. - 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 laches 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 gratuity 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 above, I direct the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal as also the concerned Treasury Officer to pay interest to the petitioner @ 8% per annum on the revised gratuity calculated on and from June 1, 2009 till the date of actual payment, that is 31.05.2013. Such payment is to be made within a period of eight weeks from the date of communication of this order.

With these observations, the writ petition is disposed of.

Since, no affidavit-in-opposition has been called for, the allegations made in the writ petition are deemed to have not been admitted by the respondents.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties, on priority basis.

(Rajasekhar Mantha, J.)