30.08.2022
Item No. 23 JPG
Court No.13.
AGM/CHC

IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI

WPA 2418 OF 2022

Sanmaith Kachhua.
Vs.
State of West Bengal & Ors.

Mr. Sakti Pada Jana,
Mr. Subhajyoti Das,
…for the petitioner.

The affidavit-of-service filled in Court today be kept with the record.

The husband of the petitioner was an Assistant Teacher who died in harness on 19.10.2015. The grievance of the petitioner is that the gratuity and arrear pension amount was disbursed only 26.02.2018. Petitioner claims interest on the delayed payment of the family pension and gratuity amount.

It is now well settled that the pensionary benefits are to be released to the retired employee or his heirs immediately upon retirement/death. If there is a delay in releasing the pensionary benefits, the retired employee is entitled to interest.

Various orders have been passed by this Court holding that the retired employee is to receive interest on delayed payment of the pensionary benefits. Some of such orders have been placed before me.

Although the point of delay or limitation has not been urged on behalf of the State, I deed it appropriate to address that issue briefly. The Limitation Act in terms does not apploy 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, pension 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 practice3 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 re4tired 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 direction on the State to compensate the retired employee for delayed payment of pension by paying interest at a reasonable rate.

Having heard the learned counsel fort the parties and having regard to the orders of this Court passed in other matters, 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 gratuity and arrear family pension amount calculated from the net day of death of her husband till the date of actual payment. 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.)