

11.05.2023
Court No.25
Item No.120
SD

WPA 10872 of 2023

**Nabi Hossain
Vs.
The State of West Bengal and Ors.**

Mr. Srinjay Sengupta
Mr. Saurav Roy
Mr. Narattam Acharyya
Mr. Ankush Ghosh

... For the Petitioner.

Mr. Niladri Bhattacharjee
Ms. Angana Dutta
Ms. Sristi Paul

... For the respondent WBTCCL.

Affidavit of service filed by the petitioner is taken on record.

The writ petitioner was an employee of the West Bengal Transport Corporation Limited (in short “the WBTCCL”) previously known as the Calcutta Tramways Company (1978) Limited. The writ petitioner retired from his service on April 30, 2018.

The writ petitioner prays for disbursement of interest on the arrears of pay payable since April 1, 1997 to March 31, 2000. The writ petitioner prays for calculation of interest from April 1, 2000.

The writ petitioner claims interest on delayed payments for benefits under the Revision of Pay and Allowance Rules, 1998 (in short, ‘ROPA’).

The petitioner also prays for the benefits under the Office Memoranda dated June 23, 2000 and July 21, 2000. The petitioner was required to be paid the arrears by five annual instalments from November 1, 2002. The petitioner was paid the said arrears by 2008.

Mr. Sengupta, learned counsel appearing on behalf of the petitioner states that he is entitled to interest for this delay in payment of arrears. The petitioner became entitled to interest on arrears on account of delay beyond the scheduled date of payment assured under the Memorandum dated June 23, 2000 and July 21, 2000.

The petitioner is entitled to claim such interest. Due to the assurance made by the employer/State, the claim of the petitioner has attained a statutory colour. A beneficial reference may be made to an order/judgment passed by the Hon'ble Division Bench in F.M.A. 3942 of 2016 (**Amarnath Tiwari & Ors. vs. State of West Bengal & Ors.**) This Court is of the view that the laws of limitation are not applicable in exercise of jurisdiction under Article 226 of the Constitution of India relying on a judgment passed by the Apex Court reported in **2022 Live Law (SC) 785 (State of Rajasthan & Ors. Vs. O.P. Gupta)**. It has also been held in the said decision that the Court cannot be oblivious to the difficulties of a retired employee in approaching the Court, which could include financial constraints.

The respondent shall pay interest from the scheduled date of payment of the annual instalments by which the arrears were promised to be paid under the

Memorandum dated July 21, 2000 till the date on which they were finally paid in 2008.

Interest to be paid @ 7% per annum within a period of three months from the date of communication of this order without insisting of production of certified copy thereof.

In default of the payment of the aforesaid interest within a period of three months from date, the rate of interest shall be increased to @ 8% per annum.

Since no affidavits have been invited in the writ petition, the allegations in the writ petition be deemed not to have been admitted by the parties.

The writ petition, **WPA 10872 of 2023** is **disposed of**.

There will be no order as to costs.

All parties to act on the server copies of this order duly downloaded from the official website of this Hon'ble Court.

(Lapita Banerji, J.)