

23.08.2023
Court No.25
Item No.41
Sws.M

WPA 19909 of 2023

Sutapa Karmakar
Vs.
The State of West Bengal and Ors.

Mr. Srinjay Sengupta
Mr. Saurav Roy
Mr. Narattam Acharya
Mr. Ankush Ghosh
... For the Petitioner.

Mr. Niladri Bhattacharjee
Ms. Deblina Chattaraj
... For the respondent WBTCCL.

Mr. Avirup Mondal
Mr. Soumen Chatterjee
... For the State

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

The writ petitioner's husband was an employee of the West Bengal Transport Corporation Limited (in short "WBTCCL") previously known as the Calcutta Tramways Company (1978) Limited. The writ petitioner's husband joined his service on July 02, 1987. The petitioner's husband retired from service on September 30, 2019.

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's husband was required to be paid the arrears by five annual instalments from November 1, 2002. The petitioner's husband was paid the said arrears by 2008.

Mr. Sengupta, learned counsel appearing on behalf of the petitioner states that she 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 July 21, 2000.

The petitioner is entitled to claim such interest. 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 19909 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.)