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08.05.2023
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Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

WPA 468 of 2023

Rinku Kabiraj
versus
The State of West Bengal & Ors.

Mr. Anirban Chakraborty
…For the Petitioner.

Mr. Bikramaditya Ghosh
Mr. Memenur Rahman
…For the State.

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

The husband of the petitioner was an Assistant Teacher of a Primary School who died-in-harness on 17th July, 2019. The first Pension Payment Order was issued on 16th March, 2020. Under the Revision of Pay and Allowance Rules, 2019 (in short, "ROPA Rules, 2019"), there was further revision of the pension and gratuity amount payable to the petitioner. The revised Pension Payment Order was issued on 16th April, 2021 and the revised gratuity and revised arrear pension was disbursed on 19th April, 2021. The petitioner claims interest on delayed payment of revised gratuity and also revised arrear pension.

I have heard learned counsel for the parties and considered the materials on record as also the orders passed by this Court in similar facts.

An employee immediately on his/her death becomes entitled to his/her terminal benefits to be paid to his/her legal heirs/heiresses.

It is also a settled position of law that the right of the legal heirs/heiresses of a deceased employee to get his/her terminal dues on the date of death is a valuable right which accrues in his/her favour on the date of his/her death. Further, gratuity and pension are no more considered to be a bounty to be handed out by the State at its whim. The legal heirs/heiresses of a deceased employee have a statutory right to receive gratuity and pension upon death of the employee. If payment of such gratuity and pension is delayed the legal heirs/heiresses of the deceased employee are surely entitled to get interest for such delayed payment in view of the provisions of Payment of Gratuity Act, 1972 and treating arrears of pension on similar line. The interest is also payable as the legal heirs/heiresses of the deceased employee are deprived from the benefit of the money during the period of delay.

In the present case, it was the bounden duty of the State to disburse the gratuity and 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 legal heirs/heiresses of the deceased employee. Pension and gratuity are welfare provisions aimed at maintaining the life of a retired employee and his/her dependents. This is compensatory in nature.

It has also been held by the Hon'ble Supreme Court in **S.K. Dua v. State of Haryana & Anr.** reported in **(2008) 3 SCC 44** that even the legal heirs/heiresses of the deceased employee have a right under Articles 14, 19 and 21 of the Constitution of India to claim interest on delayed payment of terminal benefits.

In view of the aforesaid and keeping in mind the financial condition of the employer after the pandemic and as held by the Hon'ble Supreme Court in the judgment reported in **(2021) 11 SCC 543** (**State of Andhra Pradesh & Anr. v. Dinavahi Lakshmi Kameswari**), 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 writ petitioner at the rate of 6% simple interest per annum on the amount of gratuity and arrears of family pension paid belatedly, calculated on and from the date of death till the date of actual payment.

The concerned officers/department shall start the process of disbursing the interest immediately on receiving a server copy of this order without waiting for the certified copy. At the time of payment of the interest amount, the petitioner shall produce the certified copy of the order. The payment has to be made within three months from the date of receipt of the server copy from the petitioner and/or his/her advocate. In default of making payment of the amount within three months, the respondent authorities shall be bound to pay interest @ 10 per cent simple interest per annum on the money paid belatedly from the date of death till the date of actual payment.

Since no affidavit in opposition has been invited, the allegations contained in the writ petition are deemed not to be admitted.

WPA 468 of 2023 is disposed of.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties as early as possible.

(Arindam Mukherjee, J.)