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04.05.2023
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**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

WPA 892 of 2023

Baneswari Bakshi
-versus
The State of West Bengal & Ors.

Mr. Anirban Chakraborty
...For the Petitioner.

Mr. Hirak Barman
Mr. Pretom Das
... For the State

Affidavit of service filed in Court today is taken on
record.

The husband of the petitioner was an Assistant Teacher of a Primary School who died-in-harness on 24th October, 1982. The grievance of the petitioner is that the gratuity and arrears of family pension amount was disbursed to her only on 13th May, 2019. The petitioner claims interest on delayed payment of the gratuity and arrear pension amount.

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/heirresses.

It is also a settled position of law that the right of the legal heirs/heirresses 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.

In the instant case, the respondents have not pointed out whether the inordinate delay in issuing the Pension Payment Order (PPO) was for any laches or fault on the part of the husband petitioner. In absence of the same the petitioner cannot be deprived of the interest for the delay in making payment to the retiral benefits of her husband. The petitioner, however, be disentitled to interest if the delay in issuance of PPO has occurred due to any fault or laches on the part of the petitioner.

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 892 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.)