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Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Jurisdiction

WPA 942 of 2023

Amal Chandra Barman
-versus
The State of West Bengal & Ors.

Mr. Anirban Chakraborty
...For the Petitioner

Mr. Hirak Barman
Mr. Momenur Rahman
... For the State

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

The petitioner was an Assistant Teacher of a Primary School and retired from service on 31st December, 2019. The grievance of the petitioner is that the gratuity amount was disbursed to him only on 11th January, 2021. The petitioner claims interest on delayed payment of the gratuity amount.

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

An employee immediately on his/her retirement becomes entitled to his/her retiral benefits. In order to provide the retired employee with all benefits in time, the processing of his/her pension papers starts six months before the date of his/her retirement.

It is also a settled position of law that the right of a retired employee to get his/her retiral dues on the date of attaining superannuation is a valuable right which accrues in his/her favour on the date of his/her attaining superannuation. Further, gratuity and pension are no more considered to be a bounty to be handed out by the State at its whim. An employee has a statutory right to receive gratuity and pension upon retirement. If payment of such gratuity and pension is delayed the retired employee is 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 retired employee is 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 retired 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 an employee has a right under Articles 14, 19 and 21 of the Constitution of India to claim interest on delayed payment of retiral 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 pension paid belatedly, calculated on and from the date of retirement 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 retirement 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 942 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.)