

09.02.2024

Item No. 46

Dd/Mithun

**IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side**

WPA 2564 of 2024

Nirmal Chandra Hembram

-versus

State of West Bengal & Ors.

Mr. Krishna Pada Santra

...For the Petitioner.

Mr. Amitava Chowdhury,

Mr. Bishnupada Jana

....for the State

The affidavit of service filed by the learned Advocate for the petitioner in Court today be kept on record.

The petitioner was teacher of a school, who retired on 31.10.2018. The first pension payment order was issued on 11.12.2019. Under the ROPA Rules, 2019 there was revision of the pension and gratuity amount payable to the petitioner. The revised pension payment order was issued on 23.09.2021 and the revised gratuity amount was disbursed on 24.09.2021 in terms of ROPA, 2019. The petitioner claims interest on delayed payment of the principal gratuity and arrear pension amount and also revised arrear pension amount and revised gratuity amount.

This is a considerable delay in filing of the writ petition, which the petitioner seeks to justify by stating that there is no statutory period of limitation and neither parties have suffered due to this delay. It is the submission of the petitioner that accordingly the petition should be allowed.

The petitioner relies upon an order in WP No. 17557 (W) of 2017 (Narayan Chandra Saha vs. State of West Bengal & Ors.) wherein a Co-ordinate Bench had relied upon the Supreme Court judgement in the case of Union of India vs. Tarsem Singh, reported in (2008) 8 SCC 648 on the issue of limitation relating to payment or refixation of pay or pension wherein the Apex Court had held that relief may be granted in spite of delay as it does not affect the rights of the third party.

In view of the above and after hearing the learned Counsel for the parties, I direct the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal as also the concerned Treasury Officer to pay interest @ 8% per annum on the principal gratuity and arrear pension amount calculated on and from 01.11.2018 till the date of payment and to pay interest @ 8% per annum on the revised arrear pension and revised gratuity from 14.02.2020 till the date of actual payment. Such payment is to be made within a period of eight weeks from the date of communication of this order.

With the aforesaid observations, the writ petition is disposed of.

Since, no affidavit-in-opposition has been called for, the allegations made in the writ petition are deemed to have not been admitted by the respondents.

There will be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties, on priority basis.

(Rajasekhar Mantha, J.)