

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble **Justice Harish Tandon**

And

The Hon'ble **Justice Prasenjit Biswas**

FMA No. 316 Of 2024

Anima Kayal

-Versus-

The State of West Bengal And Ors.

For the Appellant : **Mr. Pankaj Halder,
Mr. Neelabha Bera.**

For the State : **Mr. Suman Dey,
Mr. Somraj Dhar,**

Delivered on : **12.07.2024**

Prasenjit Biswas, J:-

1. The present appeal is directed against the order dated 08.01.2024 passed by a learned Single Bench in WPA 25978 of 2023.

2. Being aggrieved and dissatisfied with the said impugned order passed by the learned Single Bench the appellant has preferred this instant appeal

3. A writ petition was taken out at the behest of the petitioner/appellant with a prayer for payment of interest for delayed payment of salary and pension to the petitioner. The husband of the petitioner was appointed as an assistant teacher at Calcutta Blind School under the Mass Education Extension and Library Services Department, Government of West Bengal with effect from November 19, 1987. A writ petition was preferred by the husband of the petitioner being WP 1999 (W) of 1997 before this Court and the said writ petition was disposed of by giving direction upon the authority to confirm the service of the husband of the present appellant/petitioner. In pursuance of the said direction service of the husband of the petitioner was confirmed. Against the order passed by the Single Bench of this Court in WP 1199 (W) of 1997 an appeal was preferred by the State Authority but the said appeal was dismissed for default on June 6, 2018. A sum of Rs. 73,48,861/- was paid to the husband of the petitioner as arrear salary on December 10, 2019. The husband of the petitioner expired just after two days of the said payment of arrear salary. All the terminal benefits including the pension were given to the present appellant/petitioner but there was delay in releasing the said terminal benefit in favour of the petitioner as admitted by the State by filing affidavit.

4. Learned Single Bench being dissatisfied to the reasons for the delay in releasing the terminal benefit in favour of this appellant directed the respondent authority to grant 8% interest per annum on the gratuity amount

for the period November 30, 2021 till the date of actual payment but he declined to entertain the prayer for interest on arrear salary. It is held by the learned Single Bench that the appellant/petitioner has failed to demonstrate that when the service of the husband of the petitioner was directed to be approved by the learned Single Judge in WP 1199 (W) of 1997 there was no direction for payment of interest on the arrear salary.

5. Learned Counsel appearing on behalf of the appellant/petitioner submitted before us inter-alia that the learned Single Bench committed mistake and error in declining payment of interest on the arrear salary of the husband of the petitioner and the learned Single Judge failed to consider the facts that at the relevant time when the husband of the petitioner moved before this Court with a prayer for approval of his arrear payment, the question of prayer for interest at that time did not arise. As such the present appellant is entitled to get the interest on arrear salary of her husband.

6. Learned Single Judge held that the petitioner failed to demonstrate that there was any direction for payment of interest on the arrear salary when the order was passed by the learned Single Judge in connection with WP 1199 (W) of 1997. When a Court directs the approval of the service of a petitioner without specifying the payment of interest on arrear salary it means that the Court has acknowledged the petitioner's service but has not explicitly ordered any additional compensation in the form of interest on the delayed salary payment. While the Court has settled the matter of the petitioner's service it has not included specific directive for the payment of interest on arrear

salaries. It means that while the order was passed by the Single Bench of this Court in WP 1199 (W) of 1997 the matter of additional financial compensation in the form of interest has not been consciously given.

7. So, the learned Single Bench correctly held in declining to entertain the prayer of the interest on the arrear salary of the husband of the petitioner on the ground that the petitioner/appellant has failed to demonstrate by any document or in the order passed by the learned Single Bench in WP 1199 (W) of 1997 that there was direction for payment of interest on the arrear salary.

8. We find there is no illegality or infirmity in the order passed by the learned Single Bench and it does not warrant any interference in the said order.

9. Accordingly, the instant appeal be and the same is hereby dismissed but without any order as to costs.

10. The impugned order passed by the learned Single Bench in WPA 25978 of 2023 is hereby affirmed.

11. Urgent Photostat certified copy of this order, if applied for, be given to the parties on payment of requisite fees.

I agree.

(Harish Tandon, J.)

(Prasenjit Biswas, J.)