

21.05.2024
Court No.13
Item no.195
AP

WPA 11784 of 2024

**Badrun Nisa
Versus
The State of West Bengal & Ors.**

Ms. Dipa Bhattacharya

..For the petitioner.

Mr. Manish Biswas

..For the State.

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

The report in the form of instruction issued by the District Inspector of Schools (PE), North 24-Parganas is taken on record.

The husband of the petitioner was an Assistant Teacher of a Primary School who retired on 31.10.2009. The first pension payment order was issued on 26.10.2009, under the ROPA Rules, 2009 there was revision of the pensionary and gratuity amount payable to the petitioner. The revised pension payment order was issued on 24.07.2012 and the revised arrear pension amount was disbursed on 31.12.2012 in terms of ROPA, 2009. The petitioner claims interest on delayed payment of the revised

gratuity and revised arrear pension amount. The petitioner's husband died on 08.03.2019.

There 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 revised gratuity and arrear pension amount calculated on and from

19.05.2009 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.

The concerned Treasury Officer shall verify as to whether the petitioner is present in person along with the documents of identity before making any disbursement as directed hereinabove. In the event the petitioner is not present, the matter shall be reported to the Registrar General of this Court for appropriate action.

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.)