

26th August, 2025
(D/L No.88)
Ct. No.4
(SKB)

W.P.S.T.103 of 2025

Rameswar Saren and another
Versus
The State of West Bengal and others

Mr. Sankar Prasad Dalapati,
Mr. Samir Kumar Adhikari
... for the petitioners.

Mr. Dipanjan Datta,
Mrs. Shumita Shaw,
Mr. Subhajit Chowdhury
... for the State.

1. Heard the learned counsel for the parties.
2. The petitioners claimed to be the son and daughter of Sitaram Saren who took voluntary retirement as a constable in the State Armed Police. He was voluntarily retired on 31.09.1975. The government servant later on died on 09.11.1992. The wife of the deceased Dhani Saren filed an O.A. before the West Bengal Administrative Tribunal (in short 'Tribunal') bearing O.A. No.109 of 2022. She claimed the benefit of family pension, which was considered by the Tribunal and after such consideration, the Tribunal resolved the issue standing in the way of grant of family pension to the applicant/wife.
3. Since the applicant was not in possession of any documentary evidence, as required under the Rules, to show that she was the legally married

wife of the deceased, the Tribunal directed that the legal heirs certificate issued in her favour by the B.D.O./S.D.O. may be considered as good as a marriage certificate and based on that, the authority should sanction or disburse the benefits due under the family pension to the applicant.

4. It is under such circumstance, that the applicant's' claim was entertained, even though there was no proof of being a legally married wife as required under the Rules. The benefits of the order passed by the Tribunal in O.A. No.109 of 2022 on 04.07.2022 has been made available to the petitioners by way of sanction of the family pensionary dues on 06.06.2024. The same obviously did not carry any interest.
5. A second O.A. was, thus, filed by the petitioners/applicants claiming grant of interest @ 18% per annum for delayed payment of the dues of family pension and other dues which were paid on 06.06.2024.
6. The second O.A. was numbered as O.A. 455 of 2024 and the State authorities took an objection therein that the petitioners/applicants had made a prayer for grant of 18% interest in the earlier O.A. No.109 of 2022, which was not allowed by the Tribunal.

7. Such relief having been claimed, and not allowed the second O.A. for the same relief, was barred by constructive *res judicata*. The Tribunal has accepted the objection raised by the State authorities and did not entertain the petitioners'/applicants' plea for grant of interest.
8. It is submitted by the learned counsel for the writ petitioners that petitioners are tribal and there was no practice in the petitioner's community for having any marriage certificate. The delay in making payment of the family pensionary dues is attributable to the respondents authorities.
9. The petitioners, therefore, cannot be made to suffer deprivation of interest on the amounts due to their mother, but paid after a delay of merely three decades or more.
10. The learned counsel for the respondents, however, submits that the order of the Tribunal does not require any interference, since the petitioners have not prayed for such relief in the earlier O.A. i.e. O.A.109 of 2022, she is barred for claiming the same in the present O.A.455 of 2024.
11. Upon consideration of rival submissions, and on going through the record, we find that the claim for family pension was raised by the writ petitioners/applicants in the earlier O.A. No.109 of 2022, nearly three decades after demise of the

government servant. The applicants/petitioners were not having any proof of their mother being a legally married wife of the deceased government employee, which issue has been resolved by the Tribunal by the order dated 04.07.2022 passed in O.A. 109 of 2022, as noted above.

12. If the issue had not been resolved in the above noted manner by the Tribunal, then in absence of any documentary proof, supporting the claim of the applicants/writ petitioners' mother to be a legally married wife, the dues would have remained elusive.

13. Therefore, in these circumstances, no liability can be fastened on the respondent authorities for the delay in payment, issue being raised after long and inordinate delay as noted above. It is obviously for this reason, that the claim for interest was not espoused in earlier O.A.109 of 2022.

14. We, therefore, are in agreement with the submissions advanced on behalf of the State and are not inclined to allow the prayer for interest on the dues as claimed by the writ petitioners.

15. Having observed so, we find that the claim of the petitioners is being resisted by the State authorities having regard to the fact that they did not pray for such relief in the earlier O.A. The

respondent also did not assail the order dated 04.07.2022, and, therefore, were required to comply with the order and pay the admissible dues of the petitioners. The respondent, however, did not comply with the order passed in the earlier O.A. which directed for payment of the dues within 12 weeks. The order was passed on 04.07.2022 and the benefits have been paid nearly two years thereafter i.e. on 06.06.2024. the petitioners were deprived of their dues during this period for no fault on their part and due to such delay, they cannot be deprived of interest on the amounts admissible, yet paid late. For this period the authorities cannot absolve themselves of the liability to pay interest to the petitioners. We, therefore, direct that interest be paid to the petitioners on the dues paid from the month of October, 2022 till the date of actual payment at the rate applicable to fixed deposit in a nationalized bank, namely, State Bank of India, during this period.

16. Let the interest be paid along with a chart showing calculations of the dues being paid, within eight weeks from the date of receipt/production of the copy of this order.
17. The writ petition is disposed of accordingly.

18. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)