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07.08.2025

WPA 15737 of 2024

Harimati Sing
Vs.
The State of West Bengal & Ors.

Ms. Sreyasree Choudhury
… … for the petitioner

Affidavit-of-service filed in Court today is kept with the record.

The material facts of the case are admitted and hence I have not called for affidavits.

The husband of the petitioner was an Assistant Teacher in a Primary School. He died in harness on 21.01.1977. The Pension Payment Order was issued on 16.01.2020. The petitioner approached the concerned authority for payment of interest on the delayed payment of pension. Being unsuccessful, the petitioner has approached this Court. In this writ petition she prays for interest on the delayed payment of pensionery benefit.

It is now well settled that if there is a delay in releasing the pensionery benefits to a retired employee or to the legal heir of a deceased employee, some amount of interest should be paid to compensate for the delay in releasing the benefits. The pensionery benefits or welfare measure meant to enable a retired employee or the dependants of a deceased employee to live a life of dignity. Hence, it is imperative and of utmost importance that such benefits are released to a retired employee or the legal heir of a deceased employee without any delay. If there is delay, interest at a reasonable rate is payable by way of compensation. This is not punitive but purely compensatory.

Although the point of delay or limitation has not been urged on behalf of the State, I deem it appropriate to address that issue briefly. The Limitation Act in terms does not apply to writ petitions. The Hon'ble Supreme Court in the case of **Union of India Vs. Tarsem Singh reported in (2008) 8 SCC 648** has observed that if the issue relates to payment or re-fixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. It is settled law that the right of a retired employee to get his retiral dues on the date of attaining superannuation is a valuable right which accrues in his favour on the date of his attaining superannuation. Further, gratuity is 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 upon retirement. If payment of such gratuity is delayed, the retired employee is surely entitled to get some interest for such delayed payment.

The Rule that the High Court may not enquire into belated and stale claim is not a Rule of Law, but one of practice based on sound and proper exercise of discretion. The principle on which the relief to a party is denied on the ground of laches or delay is that the right which have accrued to others by reason of delay in approaching the Court should not be allowed to be disturbed. In the present case, it was the bounden duty of the State to disburse the gratuity 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. This is compensatory in nature. Pension and gratuity are aimed at maintaining the life of a retired 2021 employee and his/her dependents, these are welfare provisions and even if there is delay on the part of a retired employee to approach the Court claiming interest on delayed payment of gratuity, the delay per se should not be the ground for rejection of the writ petition. No third party interest will be effected by a direction on the State to compensate the retired employee for delayed payment of gratuity by paying interest at a reasonable rate.

Counsel for the petitioner drew my attention to a Memorandum dated November, 1, 2010 issued by the School Education Department, Budget Branch, Government of West Bengal. The said Memorandum pertains to pension/family pension in respect of the employees who retired or died-in-harness prior to April 1, 1981. Paragraph 4 of the said Memorandum provides inter alia, that the financial benefit may be given with effect from June 15, 1990 or from the date of application for pension/family pension whichever is later.

In the present case, the petitioner cannot state with any certainty the date of application for pension/family pension. Hence, in view of the aforesaid and also having regard to the decision of the Hon'ble Supreme Court in the case of D.D. Tewari (Dead) through legal representatives Vs. Uttar Haryana Bijli Vitran Nigam Limited & Ors. I direct the concerned Treasury Officer to pay to the petitioner interest the rate of 8% per annum on the amount released in favour of the petitioner by way of pensionary benefit on and from June 15, 1990 till the date of issuance of Pension Payment Order.

The writ petition is disposed of, however, no order as to costs.

Since no affidavit is called for, the allegations contained in the writ petition are deemed to have been denied.

Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Rajarshi Bharadwaj, J.)