

04.12.2025
Item No.04
Court No.11
KCP

**FMA 1169 of 2025
with
IA No. CAN 1 of 2025**

**Suphal Chandra Pramanik
- Versus -
The State of West Bengal & Others**

Mr. Sandip Ghosh,
Mr. Partha Sarkar.
...for the appellant
Ms. Paramita Pal.
...for the State

Affidavit-of-service, as filed, be kept on record.

This appeal has been preferred challenging the order dated 18th June, 2025 passed in W.P.A. 16200 of 2024. The said order rejected the writ petition, which had been filed seeking a direction upon the concerned respondent authority to grant interest on the arrear pension.

The writ petitioner commenced his service career as an Assistant Teacher in 1974 in an aided institution. Thereafter, in 1976, he joined a different school, which was also an aided institution. Subsequently, in 1979, he joined Batanagar High School, a D.A.-getting school. In 1982, he joined Sahapur Mathuranath Vidyapith, which is also an aided institution, and he retired upon attaining the age of superannuation on 31st July, 2008 from Sahapur Mathuranath Vidyapith.

Since, during his service tenure, he rendered service in a D.A.-getting school, a dispute arose as to whether such service should be taken into account while computing

qualifying service for pension. Following this dispute, his retiral benefits, including pension, were withheld by the respondent authority. This led the appellant to prefer W.P. 5955 (W) of 2014, which was disposed of by an order dated 20th August, 2018, setting aside the impugned order dated 28th January, 2014, and directing the respondent authority to calculate the pensionary benefits of the appellant by taking into account the entire service period starting from 1974, including his service at Batanagar High School.

The State and its functionaries challenged the order dated 20th August, 2018 in an intra-Court appeal being F.M.A. 1313 of 2021. The appeal was disposed of, upholding the order dated 20th August, 2018; however, the time for compliance of the said order was extended for a further period of eight weeks from the date of communication of that order, passed on 6th July, 2023. Subsequently, his pension payment order was issued on 8th December, 2023, and his gratuity was released on 15th December, 2023.

Thereafter, the writ petitioner/appellant preferred another writ petition, being W.P.A. 5489 of 2024, seeking a direction upon the concerned respondents to grant interest on gratuity due to its delayed payment.

The records suggest that by an order dated 11th March, 2024, the writ petition, W.P.A. 5489 of 2024 was disposed of by directing the concerned treasury officer to pay interest on gratuity at the rate of 9% per annum from the appellant's date of retirement until the date of actual payment, within the time stipulated therein. Subsequently, the appellant filed

another writ petition, being W.P.A. 16200 of 2024, seeking a direction upon the concerned respondents to pay interest on arrear pension due to its delayed payment. By the order impugned in the present appeal, the learned Court refused to accept the appellant's contention on the ground that such claim is barred by the principle of constructive res judicata. Hence, this appeal.

Mr. Ghosh, learned advocate representing the appellant, submits that the right to receive pension is a constitutional right, and that raising the plea of constructive res judicata, the appellant cannot be denied such benefit.

He submits that a direction be issued to the concerned respondents to grant interest on the arrear pension, as it was withheld by them for a considerable period of time.

Ms. Pal, learned advocate appearing for the State respondents, vehemently opposes such contention raised by the appellant and submits that the appellant could have raised this issue while pressing his writ petition, being W.P.A. 5489 of 2024.

Heard the learned advocates appearing for the respective parties and perused the materials on record.

At the cost of reiteration, it can be stated that after receipt of retiral benefits, including arrear pension and gratuity, the appellant preferred a writ petition seeking a direction upon the respondents to grant interest on gratuity for its delayed payment. At that time, the appellant did not make any claim for interest on arrear pension. The appellant

could have advanced such a claim; however, he consciously waived it.

It is a well-settled proposition of law that the principle of constructive res judicata applies to writ proceedings as well, and we are of the considered opinion that the learned Single Bench has correctly applied this principle while declining to accept the appellant's contention.

We do not find any infirmity in the impugned order, nor do we find any justification to interfere in the appeal.

Accordingly, the appeal and the connected application are dismissed.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)