

Court No. 2
(1490)

Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Side

11.04.2025
(JPD 3)

WPA 737 of 2025

(S. Banerjee)

Sukumar Das
Vs.
The State of West Bengal & Ors.

Mr. Nabankur Paul
Ms. Sutapa Sen Paul
Mr. Bodhisatya Ghosh

... for the petitioner

Mr. Pretom Das
Mr. Bikash Singha

... for the State

Let the affidavit of service filed in court today
be kept with the record.

The writ petitioner was initially appointed as a
Technical Officer in Himalayan Cooperative Milk
Producers Union Limited (for short, 'HIMUL'),
Matigara. He retired from service as a Manager on
November 29, 2016 upon attaining the age of
superannuation.

The petitioner states that the Gratuity and
Leave Encashment were paid to the petitioner only
on January 8, 2025. Since there was a long delay in
payment of Gratuity and Leave Encashment, the

petitioner prayed for interest on delayed payment of Gratuity and Leave Encashment.

Mr. Paul, learned advocate appearing for the petitioner submits that a coordinate Bench in a writ petition being WPA 2029 of 2024, in the case of Subir Kumar Mukherjee @ Subir Mukherjee –Vs.- State of West Bengal & Ors., passed an order on September 23, 2024 directing the concerned Treasury Officer to pay interest at the rate of 7% per annum with effect from the due date till the date of actual payment. He further submits that in the said order it was further provided that if the amount of interest as directed to be paid, is not disbursed within the period of 8 weeks from the date of communication of the order, an additional interest at the rate of 2% per annum was also directed to be paid.

Mr. Pretom Das, learned advocate assisted by Mr. Bikash Singha, learned advocate, appears for the State and makes his submission.

This Court finds that the coordinate Bench after noting that a retired employee has a right to get his retiral dues on the date of attaining superannuation and Gratuity and Pension cannot be said to be a bounty to be handed out by the State

at its whims. The coordinate Bench further held that if such payment is delayed, the retired employee is entitled to get interest on such delayed payment. The coordinate Bench accordingly directed the concerned Treasury Officer to pay interest to the writ petitioner at the rate of 7% per annum on the Gratuity calculated on and from the due date till the date of actual payment, provided the delay caused was not attributable to the petitioner. The coordinate Bench further directed that if the aforesaid amount is not disbursed within a period of 8 weeks from the date of communication of the said order, the concerned authority will be bound to pay to the employee additional interest at the rate of 2% per annum on account of delayed payment of Gratuity to be calculated on and from the due date till the date of actual payment.

The petitioner retired from service on November 29, 2016 and the Gratuity and Leave Encashment were released after a long delay only on January 8, 2025.

The petitioner has a legal right to get the retiral benefits immediately upon retirement and is entitled to interest for any delay in disbursing the same by the authorities, if such delay is not attributable to the employee.

After hearing the learned advocates for the respective parties, this Court finds that the writ petitioner stand on the same footing with that of the writ petitioner in WPA 2029 of 2024. In view thereof, the said decision shall squarely apply to the case on hand.

Accordingly, WPA 737 of 2025 is disposed of with the following directions:

- 1) The Additional District Magistrate, Darjeeling and Chief Executive Officer, HIMUL, being the 5th respondent herein, is directed to pay interest to the writ petitioner at the rate of 7% per annum on the amount of Gratuity and Leave Encashment to be calculated on and from the due date till the date of actual payment if the delay caused was not attributable to the petitioner.
- 2) If the aforesaid amount is not disbursed within a period of 8 weeks from the date of communication of a server copy of this order, the concerned authority shall pay to the petitioner additional interest at the rate of 2% per annum (i.e., 7% + 2% = 9% per annum) on account of delayed payment of

Gratuity and Leave Encashment to be calculated on and from the due date till the date of actual payment.

It is, however, made clear that if the delay is attributable to the petitioner, the petitioner shall not be entitled to any interest.

It will be open to the respondent authority to take appropriate steps in accordance with law against the erring officers who are responsible for the delay in releasing the retiral benefit to the petitioner.

Since affidavits have not been called for, the allegations made in the writ petition shall not be deemed to have been admitted.

With the above observations and directions the writ petition stands disposed of.

(Hiranmay Bhattacharyya, J.)