

(2018) 11 CAL CK 0029
In the Calcutta High Court
Case No : Writ Petition No.21360 (W) Of 2018

Arabinda Das

APPELLANT

Vs

State of West Bengal & Ors

RESPONDENT

Date of Decision : 20-11-2018

Acts Referred:

Citation : (2018) 11 CAL CK 0029

Hon'ble Judges : Amrita Sinha, J

Bench : Single Bench

Advocate : K.K. Panda, Rajat Dutta

Final Decision : Disposed Off

Judgement

Affidavit of service filed in Court today be taken on record.

The petitioner was appointed as an Assistant Teacher of Madarpur Subhas High School District North 24 Parganas. He retired from service on

31.10.2009. The pension payment order was issued on 04.01.2011 and the gratuity amount and the arrear pension was disbursed on 21.02.2011. The

petitioner claims interest on delayed payment of the gratuity and pension.

I have heard learned counsel for the parties and I have considered the orders passed by this court in similar facts. It is settled law that a retired

employee is entitled to some amount of interest on delayed payment of gratuity and pension.

The Honâ??ble Supreme Court in the case of Union of India Versus Tarmen Singh reported in (2008) 8 SCC 648 has observed that if the issue

related to payment or refixation 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 and pension are no more considered to be a bound to be handed out by the State at its whim.

An employee has a statutory right to received gratuity and pension upon retirement. If payment of such gratuity and pension 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 has 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 and pension 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 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 and pension, the delay per se should not be the ground for rejection of the writ petition. No third party interest will be

affected by a direction on the State to compensate the retired employee for delayed payment of gratuity and pension by paying interest at a reasonable rate.

In view of the aforesaid, I direct the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal as also the concerned

Treasury Officer to pay interest to the writ petitioner at the rate of 9% per annum on the gratuity amount as well as arrear pension calculated on and

from 01.11.2009 till the actual date of payment.

Such payment is to be made within eight weeks from the date of communication of the certified copy of this order to the concerned authorities.

Since no affidavit in opposition has been invited, the allegations contained in the writ petition are deemed not be admitted.

WP 21360 (W) of 2018 is disposed of.

There will be no order as to costs.

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