

14.05.2014

srm

W.P. No. 14435 (W) of 2014

Himangshu Kanti Maity

-vs-

The State of West Bengal & Ors.

Mr. Debasis Dey

... for the Petitioner.

None appears on behalf of the respondents when the matter is called on. No accommodation is prayed for. Let the affidavit-of-service filed today be kept with the record.

This writ petition is filed by the writ petitioner for a direction upon the respondent authorities to pay interest on gratuity for belated payment of the same.

Having heard the learned Counsel appearing for the respective parties and also considering the facts and circumstances of the case, I find that the petitioner was an Assistant Teacher of Keshiapata G.M. High School, District-Paschim Medinipur and the petitioner retired from the above service on September 30, 2013 on attaining the age of retirement on superannuation.

The payment was made to the petitioner on the basis of the Pension Payment Order on March 30, 2014.

The point of law, which is involved in this writ application, has already been settled by a judgment delivered by a Single Bench of this Court in W.P. 10750 (W) of 2007 on July 9, 2008 in the matter of Abha Acharya

-vs- State of West Bengal & Others. In the above case the petitioner was a primary school teacher and there was delay in releasing his gratuity money. Operative portion of the above decision is quoted below :

“Following the said Judgment and/or Order, I dispose of W.P. No. 1867 (W) of 2007 on 04.04.2008 and in other similar matters, I observed that since the issue was similar, the Order that I had passed in the said W.P. No. 1867 (W) of 2007 should govern those cases also.

However today when this huge pile of cases were heard, a submission was made which was not made in the cases before me referred to above, and which was to the effect that there cannot be any adjudication on the question as to who was responsible for delay in matters pertaining to payment of gratuity because the entitlement to gratuity is automatic and is to be paid on the very day the person retires. Even the learned Advocate General did not dispute this contention and very frankly and fairly stated that so far as the gratuity is concerned, it has to be paid on the date the person retires with the only exception that it can be withheld in cases where a departmental action is pending against the concerned employee.”

On the basis of the above observation, direction was given to the respondent authority to pay interest of gratuity at the rate of 10% per annum. I do not find any reason for disagreeing with the above decision. Accordingly, I direct the respondent authority to give 9% interest per annum on the gratuity amount paid to the petitioner for a period from the date of retirement of the petitioner up to the date of its actual payment. Such payment shall be made within 90 days from the date of communication of this order along with copy of this writ application upon the Director of Pension, Provident Fund and Group Insurance, Government of West Bengal as also the concerned

Treasury Officer.

It is further made clear that failure on the part of the respondent authority to pay the aforesaid interest within the stipulated time, an additional interest at the rate of 2% per annum shall be paid to the petitioner.

It is necessary to point out that the rate of interest is fixed at 9% per annum taking into consideration the highest rate of interest payable by a nationalised bank on fixed deposit.

The writ petition, is, thus, disposed of. However, there will be no order as to costs.

Urgent photostat certified copy be supplied to the parties, if applied for, on priority basis.

(Debasish Kar Gupta, J.)