

## **Constitutional Writ**

Present: The Hon'ble Justice Jayanta Kumar Biswas

Judgement on 5.5.10

W.P.No.9071(W) of 2010

Nimai Chandra Si

-vs-

The State of West Bengal & Ors.

### **Points:**

#### **INTEREST ON PAYMENT OF GRATUITY**

Whether a person retired from service before 7 years and received gratuity on September 28, 2004 without any protest, is entitled to get interest for delay in payment of gratuity. Constitution of India, Art 226

### **Facts:**

Writ application alleging inaction of the director of pension. He retired from service on August 31, 2001, but received gratuity on September 28, 2004. He submitted a representation calling upon the director of pension to pay him interest at the rate of 18% per annum for delay in payment of gratuity. Then brought this art.226 petition.

### **Held:**

The director has not been given a reasonable time to consider the worth of the petitioner's evidently stale claim. The petitioner remained silent for around seven years, and then in about a month from the date of submission of a representation he approached the writ court alleging inaction. **Para-3**

Mr. Uttam Kumar De        ....for the petitioner

Mr. Abhijit Basu         ....for the state

### **The Court:**

The petitioner retired from service on August 31, 2001 and received gratuity on September 28, 2004 without any protest. He never demanded interest for delay in payment of gratuity.

2. He submitted a representation dated March 18, 2010 calling upon the director of pension to pay him interest at the rate of 18% per annum for delay in payment of gratuity, and then brought this art.226 petition on April 29, 2010 alleging inaction on the part of the director of pension.

3. On these facts, I am of the view that the allegation of inaction should be rejected. The director has not been given a reasonable time to consider the worth of the petitioner's evidently stale claim. The petitioner remained silent for around seven years, and then in about a month from the date of submission of a representation he approached the writ court alleging inaction. In my opinion, such a petition as this should be summarily rejected.

4. For these reasons, the petition is dismissed making it clear that nothing herein shall be interpreted by the director of pension to say that the petitioner will not be entitled to interest. It is rather hoped that he shall examine the petitioner's claim according to law. No costs. Certified xerox.

(Jayanta Kumar Biswas, J.)