

Constitutional Writ
The Hon'ble Justice Jayanta Kumar Biswas
Judgement on-5.05.2010
W.P.No.9234(W) of 2010
Abdul Alim
-vs-
The State of West Bengal & Ors.

Points:

INTEREST ON PAYMENT OF GRATUITY

Whether a person retired before 6 years and received gratuity 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 December 31, 2002, but received gratuity on December 3,2004. 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 six years, and then in about one and half month from the date of submission of a representation he approached the writ court alleging inaction. **Para-3**

Mr. Md. Salauddin

Mr. Zamiul Alam

....for the petitioner

Mrs. Tapati Sinha

.....for the state

The Court:

The petitioner retired from service on December 31, 2002 and received gratuity on December 3, 2004 without any protest. He never demanded interest for delay in payment of gratuity.

2. He submitted a representation dated March 11, 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 May 3, 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 six years, and then in about one and half 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.)