

SUNITA NASKAR

ADVOCATE
HIGH COURT CALCUTTA
M no. 9830529398

CHAMBER:-

5, fancy Lane,
1st Floor
KOLKATA-700001

=====

TO,
The Government Pleader,
High Court Calcutta,
Appellate Side,

DATED- /8th.02.2021

Re: - W.P.A No. 4908 Of 2021

Sanatan Halder

-Versus-

The State Of West Bengal & Ors

Dear Sir,

I am sending herewith a petition under 226 of the constitution of India, along with all annexures, as mentioned above to you for your ready reference and the same will be moved before His Lordship the Hon'ble Justice Rajarshi Bharadwaj as listed Motion on ²²19/02/2021 or soon thereafter as and when, the business of the Hon'ble court permit when please attend.

Kindly acknowledge receipt copy of the same and oblige.

Enclose. As above.

Your faithfully

Sunita Naskar
(**SUNITA NASKAR**)
Advocate

DISTRICT : South-24- Parganas

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

W.P. A No. 40908 Of 2021

Subject Matter Relating to:

West Bengal Board of Primary
Education Act, 1973, Under Group -
II, Head - (h) of the Classification list.

-And-

In the matter of:
Sanatan Haldar

Petitioner

-Versus-

The State of West Bengal and Others

Respondents

Advocate on record

SUNITA NASKAR

Advocate
High Court, Calcutta.
5, fancy Lane, 1st Floor,
Kolkata-700001
9830529398

DISTRICT : South-24- Parganas

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

W.P. A No. 4908 Of 2021

In the matter of:

An application under Article 226 of
the Constitution of India;

-And-

In the matter of:

Sanatan Haldar

Petitioner

-Versus-

The State of West Bengal and Others

Respondents

INDEX

SL. NO.	PARTICULARS	ANNEXURE	PAGE NO.
1.	Writ Petition		1-12
2.	Xerox copy of the P.P.O. dated 04.11.2009;		
3	Xerox copy of the revised P.P.O. dated 08.03.2013;	P-1" "P-2"	13

DISTRICT : South-24- Parganas

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

W.P. A No. 4908 Of 2021

In the matter of:

An application under Article 226 of
the Constitution of India;
-And-

In the matter of:

Sanatan Haldar
Petitioner

-Versus-

The State of West Bengal & Others

Respondents

LIST OF DATES

- | | |
|---------------|--|
| 1. 31.05.2009 | The Petitioner was superannuated from service. |
| 2. 04.11.2009 | The pension payment order was issued. |
| 3. 08.03.2013 | The revised pension payment order was issued. |
| 4. 25.10.2013 | The petitioner revised amount received death-cum retirement Revised Arrear amount, without interest. |

DISTRICT : South 24- Parganas

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

W.P. A No. Of 2021

In the matter of:

An application under Article 226 of
the Constitution of India;
-And-

In the matter of:
Sanatan Halder

Petitioner

-Versus-

The State of West Bengal & Ors.

Respondents

POINTS OF LAW FOR DETERMINATION

1. WHETHER the Payment of Revised Gratuity and Arrear amount can be with held a long time?
2. WHETHER the petitioner is entitled to get interest?
3. WHETHER the concerned authority have not taken only steps for realizing the interest for delayed payment of Revised Gratuity and Arrear amount, for which the petitioner is very much entitled to and as such the entire act, actions and /or inactions of concerned authority are attracted by the Article 14, 21 and the Constitution of India?.

DISTRICT : South 24 Parganas

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

W.P. A No. 4908 Of 2021

In the matter of:

An application under Article 226 of the
Constitution of India;

-And-

In the matter of:

Sanatan Haldar, Son of Late Sudhanya
Haldar, residing at Vill- Shibpur, P.O-
Tajpur, Police Station- Mathurapur,
Distract- South 24 Parganas Pin code
no. 743354.

Petitioner

-Versus-

1. The State of West Bengal, service
through the Secretary, Education

Department (P.E.) Bikash Bhawan, Salt
Lake City, Kolkata - 700 091.

2. The Director of Pension, Provident
Fund and Group Insurance, Finance
Department, (W.B.) Purta Bhawan (2nd
Floor) Salt Lake City, Kolkata - 700
091.

3. The Treasury Officer, Diamond
Harbour , P.O.- Diamond Harbour,
District- South 24 Parganas, Pin code
no. 743331.

4. The District Inspector of School,
South 24 Parganas, (P.E) New
Administrative Building, Alipore,
Kolkata -700027.

.....Respondents

To

The Hon'ble Thottathil B. Radhakrishnan Chief Justice and His
Companion Justices of the said Hon'ble Court.

The humble petition on behalf of the
petitioner abovenamed most
respectfully -

S H E W E T H :

1. That the petitioner is a Law abiding Citizen of India and resides at the address given in the Cause Title.
2. That the petitioner was an approved Assistant Teacher of Tajpur F.P. School at P.O. Tajpur, District- 24-Parganas (South) (hereinafter referred to as the said School) and he were superannuated from service on 31.05.2009.
3. That the petitioner properly submitted all the necessary papers before the pension sanctioning authority much prior to his retirement for early releasing of his Pensionary benefits and as such the respondent no. 2 herein issued pension payment order being Memo no. 3823/P dated 04.11.2009, in favour of the petitioner.

Photo copy of the pension payment order dated 04.11.2009 is annexed herewith and marked as annexure- P-1.

4. That the petitioner submitted the said P.P.O. to the Treasury Office at Diamond Harbour for early action on behalf of the concerned

respondent regarding payment of Revised Gratuity and Arrear pension of pension as well as other retrial benefits, with interest.

5. That the matter was unnecessarily delayed by the respondents and they did not discharge their duties and obligations in time as provided under the different Government Circulars and acted as per their sweet will and computation and disbursement of the same was illegally kept in abeyance in derogation to the Government guidelines.

6. That the pensionary benefit including Revised Gratuity and revised Arrear pension is the property of the petitioner and the respondents authority by depriving the petitioner of the same have violated the provision of the Constitution of India.

7. Your petitioner states that the respondent authorities disbursed the gross revised gratuity and revised arrear in respect of revised P.P.O. and the petitioner received the Revised Gratuity and Arrear amount on

25.10.2013
Subj ~~25.04.2013~~ without interest.

8. That the petitioner is already superannuated from service and the respondents have disbursed the Revised Gratuity and Revised Arrear pension amount commuted value of the Pension after the retirement and

they have enjoyed the interest, petitioner received the Revised Gratuity and Arrear pension and commuted value of pension amount on 30.01.2013 and such action is blatantly ultravires and malafide and interest amount to comparison of a punishment upon the petitioner who is compelled to survive under extreme financial Hardship and further such withholding the provisions of the payment of Revised Arrear pension Act, 1972 and several orders passed by the Apex Court warranting comparison of penal interest @ 18% upon the respondents.

9. That the petitioner superannuated from service on 31.05.2009 but unfortunately she received the Revised Gratuity and Arrear pension and commuted value of pension on ²⁵⁻¹⁰⁻²⁰¹³ ~~30-01-2013~~ without interest. And as such the concern respondent's authority could not compliance of penal interest as provided by the statute for such delay payment of Revised Gratuity and Arrear pension amount to the petitioner in this regard.

10. Your petitioner states that after retirement from service the respondents authority, have no rights to withhold the petitioners retirement benefits, like as revised Gratuity pension amount as well as other retirement benefits, is this regard, and as such in the similar facts and circumstances of this instant case, our Hon'ble High Court Delivered

an unreported judgment, dated 27.03.2006 in W.P. No. 6305 (W) of 2006 by relying a Division Bench Decision of our Hon'ble Court being F.M.A No. 720-725 of 2004 with F.M.A. No. 731 of 2004 and an unreported judgment dated 26.09.2008 passed in W.P. No. No. 14343 (W) of 2008, by relying the W.P. No. 10750 (W) of 2007 (Abha Acharya - VS- State of West Bengal and Ors) which was disposed of on 09.07.2008, directing the Secretary, Department of Finance, Government of west Bengal to do the needful and pay interest @ 10% within 90 days from the date of receipt of a copy of the order failing which an additional interest @ 2% P.A. was made pay able, in this regard.

11. That the petitioner states that after receiving the amount of Revised Gratuity and Arrear pension as well as other retrial benefits, your petitioner personally several times met with the concern respondent authority and also requested to release the interest against the delayed payment of Revised Arrear pension but the respondent authorities always assured to the extent that the prayer of your petitioner will be considered immediately, but all are in vain as yet. The petitioner finding no other alter native your petitioner had made contact with the learned Advocate of High Court, Calcutta through one of his relative and

instructed to file writ petition for ventilating his grievances and the petitioner also went to the Treasury Office, but the concerned Treasury officer told him that without the order of Hon'ble High Court nothing can be paid by the treasury officer and as such the petitioner prays for condonation of delay in filing the instant application otherwise your petitioner will suffer irreparable loss and injury.

12. Your petitioner states that, after superannuation from his service, the Director of Pension, Provident Fund and Group Insurance, Finance Department, Government of West Bengal, issued First pension payment order, in favour of the petitioner on 04.11.2009 and there after the aforesaid authority also issued revised pension payment order in favour of the petitioner on 08.03.2013 under the revision of pay and allowances Rules, 2009.

Be it noted herein that, the petitioner, praying before this Hon'ble Court, to payment of interest on Revised Gratuity and Arrear pension for delayed payment of the principal amount as also for payment of interest on the ground of delayed payment of benefit of The West Bengal Recognised Non- Government Aided Educational Institutions Employees (Revision of pay and Allowances) Rules, 2009, from the date on which it

was payable till the date of its actual payment, by foregoing the interest of principal amount, which was reflected from his first pension payment order, alongwith claiming interest to the tune of 18% per annum.

Photo copy of the revised pension payment order being Memo no. P/03199/2013 dated 08.03.2013 by the respondents no. 2 herein is annexed herewith and marked as annexure -P-2.

13. your petitioner submitted that entitlement to interest has been accepted by a decision of Hon'ble Supreme Court (2008) 3 SCC, para-44 and held that a claim for interest for delayed payment of retrial dues can be made under part-III of the constitution of India be relying on Article 14,19, and 21 of the constitution of India.

14. Being aggrieved by and dissatisfied with the purported denial of the respondents as to disbursed the interest amount towards Revised Arrear pension and others your petitioner begs to move this petition before Your Lordship on the following amongst others :-

GROUND S

- I. FOR THAT the matter was unnecessarily delayed by the respondents and they did not discharge their duties and allegations in times as provided under different Government

Circulars and acted as per their sweet will and computations and availability of the pensionary benefits, the mentioning and disbursement of the same was illegally kept in abeyance in derogation to the Government guidelines.

- II. FOR THAT pension and Revised gratuity and Arrear pension are no longer bounty to be distributed by the Government to its employees or their heirs but have become under the various decisions of the Hon'ble Court, rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest till actual payment.
- III. FOR THAT the concerned authority being the Public authority are required to act fairly, justly and reasonably but in the instant case while dealing with the case of the petitioner the concerned authorities are denying to act fairly, justly and without sense of responsibilities and such action/actions are calling for the interference of this Hon'ble Court for be slowing due justice to your petitioner.

- IV. FOR THAT, the respondents authority are duty bound to release interest on Revised gratuity and Arrear pension for delayed payment of the principal amount as also for payment of interest on the ground of delayed payment of benefit of the West Bengal Recognised Non- Government Aided Educational Institutions Employees (Revision of pay and Allowances) Rules, 2009 in favour of the petitioner, by virtue of the order passed by this Hon'ble Court, in a similar Circumstances.
- V. FOR THAT the concerned authorities have not taken any steps for realizing the interest for which the petitioner is very entitled and as such the entire act, action and/or inactions of concerned authority are hit by Article 14, 21 of the Constitution of India.
- VI. FOR THAT the entire action of the respondents are other wise bad in law.
15. Your petitioner states that on the same facts of cause of action neither any writ petition is pending.
16. That there is no other alternative legal remedy and the remedy sought for herein would be adequate, full and complete.

17. That the records of the case lying within the Appellate Side Jurisdiction of the Hon'ble Court.

18. That the application is made bonafide and for the ends of justice.

Under the facts and circumstances stated herein above your petitioner most humbly prays that Your Lordship would graciously pleased to pass the following orders:

a) A Writ in the Nature of Mandamus commanding the respondents authority for payment of interest on Revised gratuity and Arrear pension for delayed payment of the principal amount as also for payment of interest on the ground of delayed payment of benefit of the West Bengal Recognised Non- Government Aided Educational Institutions Employees (Revision of pay and Allowances) Rules, 2009 from the date on which it was payable till the date of its actual payment, along with interest of 18%

per annum, in favour of the petitioner forthwith.

b) A Writ in the nature of certiorari commanding the respondents and each of the produce all in records, papers and documents pertaining to this case before this Hon'ble Court to annum that conscionable justice may be done by perusing the same.

c) Rule in terms of prayer (a) and (b) above.

d) Rule is made absolute if no cause for insufficient case is shown;

e) Ad-Interim order directing the concern respondent authority for payment of interest on Revised

gratuity and Arrear pension for delayed payment of the principal amount as also for payment of benefit of the West Bengal

Recognized Non- Government Aided
Educational Institutions Employees
(Revision of pay and Allowances) Rules,
2009 from the date on which it was payable
till the date of its actual payment, alongwith
interest to the tune of 18% per annum, in
favour of the petitioner till the disposal of
this instant writ petition.

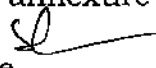
f) Any other or further relief or reliefs and/or
order or orders, direction or directions as
Your Lordship may deem fit and proper.

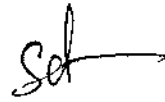
And your petitioner as in duty bound shall ever pray,

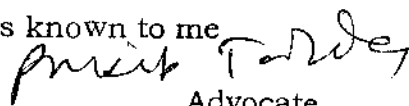
AFFIDAVIT


I, Sanatan Haldar, Son of Late Sudhanya Haldar, aged about 72 years, by faith Hindu, by occupation - retired person, residing at Vill- Shibpur, P.O- Tajpur, Police Station- Mathurapur, Distract- South 24 Parganas Pin code no. 743354, do hereby solemnly affirm and say as follows :-


1. That I am the petitioner in this case and as such am well acquainted with the facts and circumstances of the above case.
2. That the statements made in paragraphs 1 to 12 are true to my knowledge and rests are my humble submissions before this Hon'ble Court.

Prepared in my Office
I Certify that all annexure
are legible 
Advocate


The deponent is known to me
Clerk to Mr.


Advocate

Solemnly affirmed before me on
this  day of February, 2021.


Commissioner

OFFICE OF THE DIRECTOR OF PENSION, PROVIDENT FUND AND GROUP INSURANCE

PURTA BHAVAN, 2ND FLOOR, SALT LAKE

KOLKATA - 700 059

FINANCE DEPARTMENT, GOVERNMENT OF WEST BENGAL

107 Treasury Officer, DIAMOND HARBOUR

PRO NO. : PRJ/ALP/0094/2013

DEBIT : 207101100A-00911001

FILE NO. : PRJ/ALP/0496/2009/REV

A. SERVICE PENSION AND/OR DEATH GRATUITY (RELIEF AS PER INSTRUCTIONS OVERLEAF)

MEMO NO. : P/03199/2013

DATE : 8/3/2013

POPA-2009

1. NAME : SANATAN HALDAR 2. DATE OF BIRTH : 21-MAY 1970 3. QUALIFYING SERVICE : 35(Y4(M)12(D))

4. ADDRESS : VILL SHIBPUR
PO: JALPUR
DT: SOUTH 24 PGS

6. PENSION W.E.F. : 01-JUN-2009 UPTO
AMOUNT : Rs. 4294.00
(Four Thousand Two Hundred Ninety Four only.)

LAST PAY : Rs. 11080

5. PENSION SANCTIONING AUTHORITY :
D.I.S. PRY. EDN. SOUTH 24 PGS

6A. PENSION W.E.F. :
AMOUNT Rs. 0
0
WHETHER PROVISIONAL
PENSION IS RUNNING :
YES/NO

IN CASE OF DEATH OF PENSIONER, PENSION AND RELIEF PAYABLE FOR LIFE UPTO :

7. GROSS DRG Rs. 99611.00

HEAD OF A/C TO WHICH
AMOUNT TO BE DEPOSITED

7B. NET DRG PAYABLE (W.R.T. 7A) Rs. 99611.00
(Ninety Nine Thousand Six Hundred Eleven only.)

7A. DEDUCTIONS ON
ACCOUNT OF
(i) PROVISIONAL PENSION : Rs. 0.00
(ii) PROVISIONAL GRATUITY : Rs. 0.00
(iii) EMPLOYERS SHARE OF CPF : Rs. 0.00
(iv) DEDUCTION DUE TO : Rs. 0.00

7C. IN CASE 7A > 7, AMOUNT TO BE DEDUCTED FROM
PENSION/FP RELIEF - Rs.

8. NAME(S) : 1. PROVA HALDAR

B. FAMILY PENSION (EFFECTIVE FROM DATE FOLLOWING THE DATE OF DEATH OF INCUMBENT)

RELATION - 1. WIFE

DATE OF BIRTH - 1.

- 2.

9. (i) E.F.P. Rs. 4294.00 (Four Thousand Two Hundred Ninety Four only.)

(ii) E.F.P. Rs. 0

(iii) N.F.P. Rs. 3214.00 (Three Thousand Three Hundred Twenty Four only.)

(iv) N.F.P. Rs. 0

*N.F.P. Rs. UPTO :

10. LIFE TIME ARREAR OF PENSION AND RELIEF AND C.V.P. PAYABLE TO :

TO : 20-MAY-2016

TO :

FROM : 21-MAY-2016

TO :

TO :

11. DEATH OR RETIRING GRATUITY PAYABLE TO

SL NO.	NAME	SHARE FULL	REIN WIFE	AM A	SL NO.	NAME	SHARE FULL	REIN SELF	AM A
1	PROVA HALDAR				1	SANATAN HALDAR			

C. COMMITTED VALUE OF PENSION - PAYABLE AFTER FIRST PAYMENT OF PENSION

ALREADY COMMITTED : Rs. ADDITIONAL COMMITTED : Rs. 171.00

ALREADY PAID AMOUNT : Rs. 61214.00

AGE ON NEXT BIRTHDAY : 61

NET PAYABLE C.V.P. AMOUNT : Rs. 107615.00
(One Lakh Seven Thousand Six Hundred Fifteen only.)

**REDUCED AMOUNT OF PENSION PER MONTH : Rs. 2577.00
(Two Thousand Five Hundred Seventy Seven only.)

* AS PER MEMO NO. 102 SE 18 DATED 15-12-08 OF SCHOOL FINANCE DEPARTMENT, GOVT OF WEST BENGAL. IN THIS CASE RELIEF ON OLD PENSIONER'S PAYABLE AS

** REDUCED AMOUNT OF PENSION IS EFFECTIVE FROM THE DATE OF PAYMENT

AFFIX
PHOTOGRAPH
HERE

BANK :
BRANCH :
ACCOUNT :

PRO/PRO ISSUED
PREVIOUSLY BY DRG

PENSION/FP + RELIEF &
GROSS DRG ALREADY
AUTHORISED VIDE PRO
NO. ALP/0496/2009

ISSUED VIDE MEMO
NO. 6402/P

DT. : 04-NOV-2009

TO BE ADJUSTED

25 MAY 2013

ASST. DIRECTOR
DY. DIRECTOR
DIRECTOR

Saranan Haldar

DISTRICT : South 24- Parganas

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WW.P. A No. 4908 Of 2021

In the matter of:

An application under Article 226 of the
Constitution of India;

-And-

In the matter of:

Sanatan Halдар

Petitioner

-Versus-

The State of West Bengal & Ors.

Respondents

PETITION

Sunita Naskar

Advocate

High Court, Calcutta.

5, fancy lane, 1st floor,

Kolkata-700001

9830529398