

20-06.2019
Court No.3
Sh/12.

**CIRCUIT BENCH OF
CALCUTTA HIGH COURT
AT JALPAIGURI
WRIT APPELLATE JURISDICTION
APPELLATE SIDE**

W.P.A. 118 of 2019

Manoj Kumar Pal. Petitioner.

Vs.

The State of West Bengal & Ors.. . Respondents.

Mr. Nabankur Paul.

. . . .For the petitioner.

Mr. Subir Kumar Saha,

Ms. B. Bose.

. . .For the State.

Affidavit of service filed in Court today be kept with the record. It has been specifically stated in the affidavit of service that though the copy of the writ petition was forwarded to the respondent nos.5 and 6 on 22nd May, 2019 but neither any report showing service is forthcoming nor the registered envelopes have returned.

Since one month has elapsed from the date of sending the registered envelopes, the service upon the respondentnos.5 and 6 can be presumed in the instant case.

The writ petitioner retired from service on superannuation with effect from 31st October, 2014 from Himalayan Co-operative Milk Producers Union Limited (HIMUL). The controlling authority under the Payment of Gratuity Act, 1972 (hereinafter referred to as the said Act), and the Assistant Labour Commissioner, Siliguri issued a certificate on April 21, 2016 under Section 8 of the said Act for realization of the sum of Rs.4,84,121/- towards gratuity together with compound interest at the

rate of 15% per annum as per Government Notification dated 01-12-1987.

It is the case of the petitioner that in spite of issuance of certificate for payment of gratuity together with interest the employer has released the amount of Rs.4,44,425/-, which is a part of the amount which the petitioner is entitled to on account of gratuity and interest. The petitioner alleged that he is entitled to receive interest on the gratuity amount for delayed payment together with compound interest at the rate of 15% per annum.

The petitioner submitted a representation dated 05-06-2018 before the respondent nos.2, 3 and 4 requesting the said authorities to take steps to recover the balance amount but no steps have been taken in this regard even after expiry of more than one year from the date of receipt of the said representation.

Since the petitioner has made a representation to the authorities as far back as on June 2018, the respondent no.3 herein, being the said Certificate Officer, Darjeeling is directed to dispose of the representation of the petitioner dated 5th June, 2018 as expeditiously as possible, preferably within a period of three weeks from the date of communication of this order upon giving an opportunity of hearing to the writ petitioner as well as other interested parties and to communicate the same to the parties immediately thereafter.

It is made clear that the said authority is also directed to conclude the certificate proceedings in accordance with law and the procedure laid down there for within the period mentioned hereinbefore.

The instant writ petition is disposed of without any order as to costs.

Urgent Photostat Certified copy of this order, if applied for, be supplied to the learned advocates appearing for the parties expeditiously on compliance of all requisite formalities.

(HIRANMAY BHATTACHARYYA, J.)