

22.12.2020.

W.P.A. 9553 of 2020

M/s. Duckback Information System Private Limited.
Vs.
Union of India & Ors.

Mr. Victor Chatterjee
Mr. Hare Krishna Halder
Mr. K. Bhattacharyya
... For the Petitioner.

Mr. D. K. Kundu
Mr. A. Basu
... For the Respondent no. 3.

This application is for a direction upon the Life Insurance Corporation of India the respondent no. 3 to deposit an amount of Rs. 3,63,462/- in favour of the Assistant Labour Commissioner (Central), Kolkata as the petitioner wants to prefer an appeal against his order for payment of gratuity. The said order is at page 93A whereby the Assistant Labour Commissioner (Central) has directed to pay Rs. 3,63,461/- to the Duckback Information System Private Limited.

The petitioner wanted to prefer an appeal. It could not do so for want of the said amount of money which was deposited with Life Insurance Corporation of India under Group Gratuity Cash Accumulation Scheme. The petitioner thereafter approached the Assistant Labour Commissioner for an order pursuant to a letter issued by the Life Insurance Corporation of India dated 14th July, 2020 (which is at annexure P8 at page 105A) wherein LIC

has said, inter alia, that for disbursing any amount of money a copy of the order for issuing a cheque in favour of the Assistant Labour Commissioner is required. The petitioner made an endeavour for that purpose. But as the Assistant Labour Commissioner by her order dated 14th October, 2020 (at page 137/137A) has observed that no order can be passed as the proceeding before her has been concluded, the petitioner has approached this Court by way of this writ application.

When there is a provision for appeal in the Payment of Gratuity Act, 1972, the petitioners have a statutory right to prefer an appeal which cannot be denied to them and but the petitioner has not able to do so as the amount decide by the Assistant Labour Commissioner us to be deposited for proceeding appeal, the petitioner's money is with LIC under Group Gratuity Case Accumulation Scheme. Nobody will deny that the cash deposited by the petitioner with LIC is the money of the petitioner. LIC also has taken very fair stand for avoiding any future dispute and thus an order was required for transferring the money by LIC.

In the facts and circumstances as aforesaid, I direct LIC to pay an amount of Rs. 3,63,462/- to the petitioner by way of cheque drawn in the name of Assistant Labour Commissioner (Central) within a period of two weeks from the date of communication of this

order.

I am told that in the meantime the period for preferring appeal has expired due to pandemic situation and also for filing the application before the Assistant Labour Commissioner which has been rejected and filing an application and to obtain an order from this Court has taken sometime. Therefore the appellate authority should consider sympathetically the expiry of the limitation period in preferring the appeal.

The authority under The Gratuity Act should not take any step in the meantime till the appeal is filed against the petitioner as they have taken sincere steps for preferring the appeal.

With the above direction, the writ petition is disposed of.

All parties are directed act on the server copy of this order.

(Abhijit Gangopadhyay, J.)