

06.08.2021
Court No. 19
Item no.10
CP

WPA 2985 of 2021
with
CAN 1 of 2021

Pijush Kanti Dutta
Vs.
State of West Bengal & ors.

(via video conference)

Ms. Senjuti Sengupta
Mr. R. Guha Thakurta

.....for the petitioner.

Mr. Dipak Kumar Mukherjee
Mr. Rajib Mukherjee
Ms. Shreyasi Bhaduri

.....for respondents 2, 3 & 4.

Mr. Bipin Ghosh

.....for the State.

CAN 1 of 2021

CAN 1 of 2021 is an application for substitution of Jharna Dutta as the sole legal heir and representative of the petitioner. The application has been filed within time. Having perused the application, it appears that the petitioner died during the pendency of the writ petition on May 28, 2021.

The substitution application is allowed.

Office is directed to incorporate Jharna Dutta instead and in place of the petitioner.

WPA 2985 of 2021

It has been alleged that gratuity has not been paid to the erstwhile petitioner, since deceased, who was an ex-employee of the Bhatpara Municipality and retired from service on May 31, 2015.

It is submitted by the learned advocate for the municipality that due to lack of funds, the gratuity payable to the deceased could not be released. The municipality has also approached the Department of Urban Development and Municipal Affairs for release of funds.

Gratuity is an entitlement of the employee who has rendered uninterrupted and honourable service to the municipality. The municipality as the employer is not showing any charity by releasing gratuity in favour of its retired employees. As the Municipality has already approached the Government for release of funds, this court is of the opinion that the death gratuity amount payable to the deceased should be released in accordance with law within a period of eight weeks from the date of communication of this order. The question of granting interest is left open.

The quarrel between the State Government and the municipality with regard to release of funds cannot affect the right of the heir of a deceased retired employee to the gratuity payable to the

deceased. His wife, the sole heir, has a right to such retirement benefits upon his death and the inaction of the respondents is oppressive, harassive and violative of the rights of the family of the senior citizen.

The Secretary of the Department of Urban Development and Municipal Affairs shall also ensure that the widow is not mal-treated and exploited in such a manner. Necessary funds be released by the government as per law.

This writ petition is, thus, disposed of.

There will be no order as to costs.

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

(Shampa Sarkar, J.)