

WPA 8000 of 2021

Eastern Coalfields Limited & Anr.
Versus
Union of India & Ors.

Mr. Manik Das

...for the petitioners

Mr. S. N. Ghosh,
Mr. Souvik Ghosh

.....for Respondent No. 4.

Mr. Raj Kumar Gaurisaria,
Mr. Biswajit Maity.

...for the Respondent No. 1, 2 & 3.

This is the non-payment of gratuity matter. In the order of the controlling authority wherein the dispute was raised. It has been categorically recorded that the applicant being the employee agrees for not claiming the interest but the contention of the writ petitioner is that the appellate authority on appeal filed by them has granted the interest without observing anything on this point of the applicant's undertaking as to not claiming any interest. The applicant submits that he also preferred an appeal against the order of the controlling authority wherein in Paragraph 6, he has stated (in the appeal) that the appellant being the employee at any stage did not relinquish his statutory right of interest for delayed payment of gratuity.

My attention has been drawn to the order passed by the appellate authority in Appeal No. PG-01/2020-E dated 30th December, 2020 where there is no discussion as to payment or non-payment of interest

on the unpaid gratuity. I find that the appellate authority has really decided the point of gratuity without taking into consideration the contentions of the parties on interest. There is no observation on this point whether the employee undertook not to claim any interest on gratuity, who subsequently by preferring appeal contended that he never relinquished his statutory right of interest for delayed payment of gratuity. As I do not find any discussion and observation in respect of this disputed question of fact as to relinquishment of interest in the appellate authority's order, this part of the order as to payment of interest on gratuity to the extent of Rs. 3,16,370.00/- is set aside.

I direct any other officer of the appellate authority except Mr. Minaketan Dhurua who heard the appeals to decide this point on the basis of the records of this case lying before the controlling authority within a period of 6 months from date.

With this observation, this writ petition is allowed.

(Abhijit Gangopadhyay, J.)