

December 20, 2021

ARDR

(186)

WPA 17994 of 2021

M/s. R.D.B. Textiles Ltd.
Vs.
The State of West Bengal & Ors.

Mr. Ravi Dubey, Mr. Pranav Sharma,	...for the petitioner.
Mr. Debasish Sur, Mr. Angshuman Patra, Mr. Mrinmoy Chatterjee,	...for the private respondent.
Mr. Susovan Senguta, Mr. Bipin Ghosh,	...for the respondent no.3.
Mr. Chandi Charan De, Ms. Chandana Ghosh,	...for the State.

Heard learned counsels for the parties.

Learned counsel for the petitioner submits that pursuant to an order passed on 3rd July, 2019 in WP 21959 (W) of 2018 by a coordinate Bench of this Court, the employee Anil Kumar Ghosh (4th respondent) was asked to appear before the labour office of the company for completing necessary formalities with regard to his dues. This respondent received a cheque of Rs.84,468/- in full and final settlement of his dues on 10th August, 2019 though the gratuity amount was Rs.1,69,936/-. Learned counsel for the petitioner has taken the Court to annexures P/3, P/4, P/5 and P/5 to the writ petition, wherein the 4th respondent has declared that he has no disputes/differences with the company and has withdrawn

the gratuity case pending before the competent forum and also that he has no further claim of either gratuity or interest thereon with the company. The petitioner complains that despite settlement of dues with the employee, the Certificate Officer issued notice upon the company in compliance with the order of this Court in this regard passed on 2nd September, 2021 directing compliance of the Court order. The said order directs the Certificate Officer to recover the dues of the employee and take necessary steps for payment of the same to the employee in terms of the provisions of Payment of Gratuity Act, 1972 within a period of two months from the date of the order. Learned counsel submits that as the entire amount of gratuity has been settled finally with the 4th respondent, the said respondent is debarred from claiming any further amount from the company. Learned counsel has placed reliance on the authority in ***Tushar Kanti Roy vs. Eighth Industrial Tribunal, Kolkata*** reported in ***2013(1) CHN (Cal) 504***, wherein it has been observed that acceptance of the amount in full and final settlement of dues amounts to an act of waiver on the part of the employee, more so, as the employee received the amount voluntarily and was not forced or coerced to received the same.

Though it is submitted on behalf of the 4th respondent that he was forced/coerced to put his signatures in the cheque as well as in the relevant

documents relating to full and final settlement of his dues, no step has been taken by the respondent challenging the said action of the company.

It is submitted on behalf of the Certificate Officer that since the Certificate Officer is a court, the grievance of the 4th respondent can be addressed by either the Certificate Officer or in a Court of law.

In view of the submissions made on behalf of the parties and also the fact that the 4th respondent has received his dues in full and final settlement of his claim, notice issued by the Certificate Officer on 1st November, 2021 cannot be given effect to. However, the 4th respondent is at liberty to approach the appropriate forum in the event he is of the view that his signature was obtained by fraud or force. Till then further recovery from the petitioner is unwarranted.

With the above observations, WPA 17994 of 2021 is disposed of. However, there shall be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)