

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 20086 of 2021

Tarun Das
Vs.
The Durgapur Projects Limited & Ors.

Mr. Siddhartha Sarkar
... For the petitioner

Mr. Sujit Shankar Koley
Mr. S.R. Saha
... For the respondents

Affidavit of service filed in Court today is taken on record.

The petitioner was an employee in Durgapur Projects Limited (in short "DPL"), the respondent no.1. The petitioner retired from service on 30th September, 2020. The petitioner on his retirement was entitled to payment of gratuity of Rs.16,89,600/-. This figure is not in dispute. The petitioner was paid this amount on 17th April, 2021 towards gratuity. The date of payment is also not in dispute. The petitioner says that there has been a delay of about 6 months in making of the said sum of Rs.16,89,600/- on account of gratuity. The petitioner, therefor, is entitled to interest for delayed payment of gratuity as per the provisions of Section 7(3A) of the Payment of Gratuity Act, 1972 (hereinafter referred to as the "said Act") since the same is part of the retiral benefits.

The petitioner further says that he has not been paid the amount due on account of leave salary. However, no document from the side of the employer has been produced in support of the claim for leave salary. In absence of any such document, the issue of disbursing the leave salary with or without interest cannot be considered. It will be, however, open to the petitioner to claim leave

salary separately. The employer can also on its own compute the leave salary and pay the same to the petitioner.

The issue as delayed payment of gratuity as involved in the instant writ petition is squarely covered by a recent judgment and order of this Court dated 9th August, 2021 passed in WPA 11485 of 2021 (Kajal Pal v. The Durgapur Projects Ltd. & Ors.). The consensus between the parties as was in case of Kajal Pal (supra) is also there in the instant case.

As such, this writ petition is disposed of on the similar lines as in Kajal Pal (supra), which are as follows:-

The respondent no.1 is directed to pay interest to the writ petitioner at the rate of 6 per cent per annum on Rs.16,89,600/- being the amount on account of gratuity calculated on and from 1st October, 2020 till 17th April, 2021, within a period of six months from the date of communication of a photostat certified copy of this order and in default statutory rate of 10 per cent as in case of gratuity will be attracted on the entire amount from 1st October, 2020 till 17th April, 2021.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)