

02.09.2021
Court No. 19
Item no.08
CP

WPA 11727 of 2020

Shabnam Ara @ Sabnam Ara & ors.
(since Shouqat Ali is deceased)

Vs.

State of West Bengal & ors.

(via video conference)

Mr. Senjuti Sengupta
Mr. R. Guha Thakurta

.....for the petitioner.

Mr. Dipak Kumar Mukherjee
Mr. Rajib Mukherjee
Ms. Supriya Dey Barat
Ms. Shreyasi Bhaduri

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

Ms. Kakali Samajpaty
Mr. Sudipta Samanta

.....for the State.

Petitioners are the substituted heirs of a deceased employee of the Bhatpara Municipality. During the pendency of the writ petition the said employee expired. The petitioners were accordingly substituted by the order of this court.

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 February 28, 2019.

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 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 legal heirs of a deceased retired employee to the gratuity payable to the deceased. The legal heirs have a right to such retirement benefits 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 legal heirs are 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.)