

05.08.2021
Court No. 19
Item no.39
sn

WPA 11789 of 2020

Israwati Das
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.

Ms. Suchitra Roy.

... for the State.

The petitioner is the wife of an ex-employee of the Bhatpara Municipality. The petitioner's husband retired from service on November 30, 2015. It is alleged that the gratuity has not been paid to her husband who died on June 8, 2019.

It is submitted by the learned advocate for the municipality that due to lack of funds, the gratuity payable to the petitioner 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 petitioner's deceased husband should be released in accordance with law within a period of 12 weeks from the date of communication of this order upon compliance of all formalities by the petitioner as required under the law. 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 a retired employee to get his gratuity. His heir also 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 families of such employees who retired from the Bhatpara Municipality, are not mal-treated and exploited in such 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.)