

Item No.7.

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 29.09.2022

DELIVERED ON:29.09.2022

CORAM:

**THE HON'BLE MR. JUSTICE T. S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE SUPRATIM BHATTACHARYA**

**F.M.A. No.704 of 2018
With
I.A. No.CAN 1 of 2017 (Old CAN 5192 of 2017) (not found)**

**The General Manager, UCO Bank
Vs.
Sri Binayak Mandal & Anr.**

Appearance:-

**Mr. Susanta Pal,
Mr. Sudeep Pal Chowdhury,
Ms. Diya Nandi**

..... for the appellant.

Mr. Sujit Lal Sircar

.... for the respondent no.1.

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, J.)

1. This intra-Court appeal is directed against the order dated 17th February, 2017 in W.P. No.27743(W) of 2015. The appellant is the UCO Bank, which had filed the writ petition challenging the order passed by the appellate authority under the Payment of Gratuity Act, 1972 (for short, "the Act"), which affirmed the order passed by the controlling authority dated 21st January, 2013 granting interim on the delayed payment of gratuity. The respondent no.1 is a retired employee of the appellant / bank having retired on attaining the age of superannuation on 30th June, 2011. Two days prior to his retirement, on 28th June, 2011, he was issued a charge sheet alleging certain irregularities, which are said to have been taken place between November 12, 2007 and 30th April, 2008 and the disciplinary proceedings attained finality and minor penalty was imposed.

2. Therefore, the respondent no.1's gratuity amount had been paid on 6th August, 2013. The respondent no.1 had requested the bank for payment of interest, which was declined. Therefore, he had approached the controlling authority under the Act and the matter was contested by the appellant / bank and by order dated 21st January, 2013, the controlling authority held that the

respondent was entitled for interest. The appellant / bank had challenged the said order before the appellate authority under Act, which was rejected by an order dated 24th November, 2014. Challenging the said order, the present writ petition came to be filed in the year 2015. The learned Single Bench after taking note of the facts of the case and also the fact that the gratuity amount had been settled belatedly only on 6th August, 2013 and that there was no order passed by the appellant / bank forfeiting the gratuity amount of the respondent no.1 directed payment of interest at 10% per annum from the day next to his retirement to the date of actual payment of gratuity.

3. Taking note of the hard facts, the learned Writ Court also granted interest on interest @ 6% per annum because the inordinate delay in settling the interest amount. The appellant / bank has not been able to point out any jurisdictional error committed by the authorities under the Payment of Gratuity Act, nor there is any error pointed as regards the decision making process by the authorities.

4. Therefore, in our view, the learned Writ Court rightly declined to interfere with the order passed by the authorities under the Act and we find no grounds to interfere with the said order. Accordingly, the appeal fails and is dismissed. The

appellant / bank has already deposited Rs.2 lakhs before the Learned Registrar General in terms of the order passed by the learned Single Bench on 14th January, 2016 towards the said claim, which the respondent no.1 shall be entitled to withdraw along with accrued interest, if any.

5. So far as the amount of interest on interest as directed by the learned Single Bench to be paid, the same shall be settled to the respondent no.1 within a period of eight weeks from the date of receipt of the server copy of this judgment and order.

6. There shall be no order as to costs.

7. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM, J)

I agree,

(SUPRATIM BHATTACHARYA, J.)

NAREN/PALLAB (AR.C)