

March 16, 2022
ARDR
(209)

WPA 1681 of 2022

Gopal Naskar
Vs.
The State of West Bengal & Ors.

Mr. Uddipan Banerjee,
...for the petitioner.
Ms. Amrita Pandey,
Ms. Anamika Pandey,
...for the respondent no.3.

Affidavit of service filed by the petitioner is taken on record.

The petitioner prays for expeditious disposal of the gratuity case pending before the Controlling Authority, the 2nd respondent herein.

Learned counsel for the 3rd respondent submits that as the Company has its registered office at 4 Council House Street, Kolkata – 700001, the matter should be dealt with by the Controlling Authority at the said address of the Company. In reply, learned counsel for the petitioner submits that as the petitioner was an employee at the factory of the Company situated at Howrah, the issue should be dealt with by the Authority at the office at Howrah.

Learned counsel for the third respondent further submits that the application in Form I was submitted by the petitioner beyond the statutory period of time as indicated in Rule 7(1) of the West Bengal Payment of Gratuity Rules, 1973. No application for condonation of

such delay was submitted by the petitioner before the Authority.

In reply to the said contention, learned counsel for the petitioner refers to Rule 8((1)(ii) of the West Bengal Rules which demonstrates that in the event the claim for gratuity is not found admissible a notice in Form 'N' should be issued to the applicant/employee by the employer. The said provision has not been complied with by the company.

The petitioner primarily complains non-payment of gratuity. The petitioner retired from service on 1st January, 2008 and his application in Form I not being considered by the employer, the petitioner filed an application in Form N before the Controlling Authority which was registered as Gratuity Case No. G-19/08/DLC/HOW. The said case is still pending before the Authority. The petitioner has prayed for direction upon the Authority to consider the gratuity case at the earliest.

Upon consideration of the submission made on behalf of the parties, this Court is of the view that the Controlling Authority, the 2nd respondent herein, may be directed to consider and dispose of the gratuity case being G-19/08/DLC/HOW pending before it within a period of four months from the date of communication of this order after giving reasonable opportunity of hearing to all the interested parties including the petitioner, in accordance with law. In dealing with the gratuity case, the 2nd respondent shall take into consideration the submissions

made by both the parties in the writ petition as recorded in this order.

It is made clear that this Court has not gone into the merits of the case and the parties shall be at liberty to place their respective contentions as made out in the writ petition before the Authority at the time of hearing.

W.P.A. 1681 of 2022 is thus disposed of. However, there shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities.

(Suvra Ghosh, J.)