

29.03.2022
Sl. No.35
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 2670 of 2022

Fakir Karmakar
Vs.
The Durgapur Projects Limited & Ors.

Mr. Ayan Banerjee,
Mr. Suman Banerjee
...for the petitioner.

Mr. S. S. Koley
....for DPL.

The petitioner was an employee in Durgapur Projects Limited (in short “DPL”), the respondent no.1. The petitioner retired from service on 30th November, 2019. The petitioner on his retirement was entitled to payment of gratuity of Rs.9,44,017/-. This figure is not in dispute. The petitioner was paid this amount on 14th December, 2020 towards gratuity. The date of payment is also not in dispute. The petitioner says that there has been a delay of about 13 months in making of the said sum of Rs. 9,44,017/- on account of gratuity. The petitioner further says that he has not been paid the amount due on account of leave salary. 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.

It further appears from a memo dated 24th August, 2020 issued by DPL (appearing at page 13 of the writ petition) that the petitioner is entitled to payment of salary equivalent to 297.5 days Earned Leave lying in his credit on the date of retirement. DPL is liable to pay the said payment of salary equivalent to 297.5 days Earned Leave to the petitioner as such sum has not yet been paid with interest from the date of retirement till actual payment since there is no dispute in this regard.

The issues involved in the instant writ petition are 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. 9,44,017/- being the amount on account of gratuity calculated on and from 1st December, 2019 till 14th December, 2020, a sum

equivalent to salary for 297.5 days calculated on the basis of his last drawn salary with interest @ 6 per cent per annum from 1st December, 2019 till actual payment, 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 December, 2019 till 14th December, 2020.

Nothing further remains to be adjudicated in this writ petition.

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.)