

13
15.03.2022
Court No. 23
d.g.

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 3059 of 2022

Pradip Kumar Sarkar
Vs.
West Bengal Housing Board & Ors.

Mr. Arup Kumar Lahiri,
Mr. Udayan Datta.
... for the petitioner

Mr. Amitava Mitra,
Ms. Antara Choudhury.

... for the West Bengal Housing Board

Mr. Anil Kumar Gupta,
Mr. Yogesh Kumar Sharma.

... for PF Authorities

The petitioner is dissatisfied with the computation as to the amount on account of provident fund, leave encashment and gratuity. So far as gratuity is concerned, the same is computed under the provisions of Section 4 of the Payment of Gratuity Act, 1972. The basis of computation is provided in the said Section along with the ceiling limit. There can be no major dispute regarding the gratuity amount if the length of service and the amount received as the wages required to be considered for computing the gratuity amount are not in dispute. So far as leave salary is concerned, the same is dependant on the accumulation of leave available to an employee under the service conditions. The number of days is required to be fixed and the total figure is computed by multiplying the number of days by the last drawn salary for such period. As regards the provident fund, deductions are

made on percentage basis from the salary of the employee and a matching amount as per the provisions of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 and the rules framed thereunder is added to such deduction and deposited by the employer either with the provident fund authority under the 1952 Act or in case of exempted organization to the authority set up for the same. These are factual issues and as such, the authority concerned will be more equipped than the writ Court to delve on these factual issues. Since the petitioner alleges discrepancy in these three heads and had made representations respectively on 25th October, 2021 and 17th January, 2022, I direct the respondent no. 2 to consider and dispose of the said two representations made by the petitioner by a reasoned order addressing the issues raised within a period of three months from date after giving the petitioner, a reasonable opportunity of hearing. The reasoned order should be communicated to the petitioner within a period of ten days from the date of passing of this order.

In the event, it is found that the petitioner is entitled to any excess sum than the amount he has already been paid, the respondent no. 1 shall be at liberty to pay the petitioner such excess sum if they accept the order so to be passed by the respondent no. 2.

All parties including the respondent no. 2 shall act on the basis of a server copy of this order without insisting upon production of a certified copy.

The respondent no. 2 shall be free to come to an independent conclusion without being influenced in any

manner by this order since I have not gone into the merits.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

Since I have not called for any affidavit, 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.)