

IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE

**WPA 3852 of 2022**

Krishna Seal  
Vs.  
The Durgapur Projects Limited & Ors.

Mr. Siddhartha Sarkar  
... For the petitioner

Mr. Sujit Shankar Koley  
... For the respondents

Affidavit of service filed in Court today is taken on record.

The petitioner is the widow of a retired employee of Durgapur Projects Limited (in short "DPL"), the respondent no.1. The petitioner's husband retired from service with effect from 31<sup>st</sup> July, 2016 and died on 12<sup>th</sup> January, 2021. The petitioner is claiming interest on delayed payment of gratuity and leave salary. The husband of the petitioner on his retirement was entitled to payment of gratuity and an amount on account of leave salary aggregating to Rs.13,35,104/-. This figure is not in dispute. The petitioner's husband was paid this amount on 8<sup>th</sup> December, 2017. The date of payment is also not in dispute. The petitioner says that there has been a delay of about 16 months in making of the said sum of Rs.13,35,104/- on account of gratuity and leave salary. The husband of the petitioner, therefor, was 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”) and interest on the same rate on leave salary since the same is part of the retiral benefits.

Although, there is a delay in approaching the Court, but the delay, according to me, is not a very long delay which is fatal and disentitles the petitioner of her claim.

The issues involved in the instant writ petition are squarely covered by a recent judgment and order of this Court dated 9<sup>th</sup> 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.13,35,104/- being the amount on account of gratuity and leave salary calculated on and from 1<sup>st</sup> August, 2016 till 8<sup>th</sup> December, 2017 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 1<sup>st</sup> August, 2016 till 8<sup>th</sup> December, 2017.

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.)**