

IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE

**WPA 3856 of 2022**

Upanath Pandit  
Vs.  
The Durgapur Projects Limited & Ors.

Mr. Siddhartha Sarkar  
... For the petitioner

Mr. Sujit Sankar Koley  
... For the respondents

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

Leave is granted to the advocate for the petitioner to correct the inadvertent typographical error in the name of the petitioner in the Presentation Form and the cause title of the writ petition.

The Registry/Department is directed to take note of the correction in the records and in the register.

The petitioner was an employee in Durgapur Projects Limited (in short "DPL"), the respondent no.1. The petitioner retired from service on 31<sup>st</sup> October, 2020. The petitioner on his retirement was entitled to payment of gratuity of Rs.6,62,740/-. This figure is not in dispute. The petitioner was paid this amount on 12<sup>th</sup> May, 2021 towards gratuity. The date of payment is also not in dispute. The petitioner says that there has been a delay of about 6 months in making of the said sum of

Rs.6,62,740/- on account of gratuity. The petitioner further says that he has not been paid the amount due on account of leave salary. The petitioner, therefore, 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 12<sup>th</sup> April, 2021 issued by DPL (appearing at page 12 of the writ petition) that the petitioner is entitled to payment of salary equivalent to 300 days Earned Leave lying in his credit on the date of retirement. DPL is liable to pay leave salary equivalent to 300 days Earned Leave calculated on the basis of his salary 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 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.6,62,740/- being the amount on account of gratuity calculated on and from 1<sup>st</sup> November, 2020 till 12<sup>th</sup> May, 2021, a sum equivalent to salary for 300 days calculated on the basis of his last drawn salary with interest @ 6 per cent per annum from 1<sup>st</sup> November, 2020 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 1<sup>st</sup> November, 2020 till 12<sup>th</sup> May, 2021.

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.)**