

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 3872 of 2022

Biman Chandra Mukhopadhyay alias
Biman Mukherjee

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 husband of an employee of Durgapur Projects Limited (in short "DPL"), the respondent no.1, who died while in employment on 24th January, 2015. The petitioner is claiming interest on delayed payment of gratuity and leave salary. The wife of the petitioner on her death was entitled to payment of gratuity and an amount on account of leave salary aggregating to Rs.13,02,590/-. This figure is not in dispute. The petitioner's wife was paid this amount on 22nd April, 2016. The date of payment is also not in dispute. The petitioner says that there has been a delay of about 15 months in making of the said sum of Rs.13,02,590/- on account of gratuity and leave salary. The wife 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.

The petitioner’s cause to claim the principal sum has accrued for the first time after the death of his wife on 24th January, 2015. On the payment of the principal sum the petitioner’s cause to claim interest accrued on 22nd April, 2016. The wrongful act that caused an injury was complete on 22nd April, 2016. There is no continuing wrong even though the damage resulting from the act may continue. The injury caused by the wrongful act does not continue. Thus, there is no continuous cause to enable filing of the writ petition after six years, the writ petition having been filed only on 2nd March, 2022. There is, as such, a long delay in filing the writ petition which disentitles the petitioner from claiming interest.

Although, the issues relating to claim of interest for delayed payment as 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.), but the enormous delay in approaching the Court, however, disentitles the petitioner from claiming interest. Nothing has been pleaded to show that the petitioner’s claim is a continuing cause. In absence of the same the writ petition is liable to be dismissed for long delay and laches on the part of the petitioner in view of the ratio laid down in 2008

(8) SCC 648 (Union of India And Others vs. Tarsem Singh) and 2016 (13) SCC 797 (Asger Ibrahim Amin vs. Life Insurance Corporation of India) which according to me is applicable in this case.

The writ petition is dismissed. There shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of necessary formalities.

(Arindam Mukherjee, J.)