

336
18.04.2022
Ct. No.10
b.das

WPA 6061 of 2022

Amal Das
Vs.
State of W.B. & Ors.

Mr. Uddipan Banerjee ...for the petitioner.

Ms. Amirta Pandey ...for the respondent No.3.

Affidavit of service filed by the petitioner is taken on record.

None appears for the State respondents despite service.

Mr. Bipin Ghosh, who usually appears for the State and is present in Court, is requested to represent the State in the matter. His appointment be regularized by the office of the learned Legal Remembrancer.

The petitioner should serve copy of the writ petition alongwith all annexures thereto to Mr. Ghosh in course of this day.

The petitioner prays for expeditious disposal of the gratuity case pending before the Controlling Authority, the 2nd respondent herein.

Learned counsel for the 3rd respondent submits that as the Company has its registered office at 4 Council House Street, Kolkata – 700001, the matter should be dealt with by the Controlling Authority at the said address of the

Company. In reply, learned counsel for the petitioner submits that as the petitioner was an employee at the factory of the Company situated at Howrah, the issue should be dealt with by the Authority at the office at Howrah.

Learned counsel for the third respondent further submits that the application in Form I was submitted by the petitioner beyond the statutory period of time as indicated in Rule 7(1) of the West Bengal Payment of Gratuity Rules, 1973. No application for condonation of such delay was submitted by the petitioner before the Authority. In reply to the said contention, learned counsel for the petitioner refers to Rule 8((1)(ii) of the West Bengal Rules which demonstrates that in the event the claim for gratuity is not found admissible a notice in Form 'N' should be issued to the applicant/employee by the employer. The said provision has not been complied with by the company.

The petitioner primarily complains non-payment of gratuity. The petitioner retired from service on 15th April, 2018 and his application in Form I not being considered by the employer, the petitioner filed an application in Form N before the Controlling Authority on 20th September, 2021. The said case is still pending before the Authority. The petitioner has prayed for direction upon the Authority to consider the gratuity case at the earliest.

Upon consideration of the submission made on behalf of the parties, this Court is of the view that the

Controlling Authority, the 2nd respondent herein, may be directed to consider and dispose of the gratuity case pending before it within a period of four months from the date of communication of this order after giving reasonable opportunity of hearing to all the interested parties including the petitioner, in accordance with law. In dealing with the gratuity case, the 2nd respondent shall take into consideration the submissions made by both the parties in the writ petition as recorded in this order.

It is made clear that this Court has not gone into the merits of the case and the parties shall be at liberty to place their respective contentions as made out in the writ petition before the Authority at the time of hearing.

With the above observations and directions this writ petition being WPA 6061 of 2022 is disposed of.

However, there shall be no order as to costs.

Since no affidavit is invited, the allegations contained in the petition are deemed not to be admitted.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh, J.)