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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 8859 of 2022

Bijan Kumar Paul @ Pal
Vs.
The State of West Bengal & Ors.

Mr. Uddipan Banerjee
.... For the petitioner.

Ms. Anamika Pandey,
Ms. Amrita Pandey,
Mr. Ghanshyam Pandey,
Ms. Sneha Singh
... For the respondent no.3.

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

Despite service, the respondent nos. 1 and 2 are not represented.

The instant writ application has been filed *inter alia* praying for a direction upon the respondent no.2 to hear out and expeditiously dispose of the proceeding, being Gratuity Case No.G-62/19/DLC/HOW arising out of the application for direction dated 4th June, 2019 submitted by the petitioner with the respondent no.2.

Mr. Banerjee, learned advocate, appearing in support of the aforesaid application submits that the petitioner was gainfully employed with the respondent no.3. He had since been superannuated on 1st January,

2016. Subsequent to his superannuation he had applied in Form I on 22nd April, 2019 and had claimed an amount of Rs.2,40,585.57/-. Despite receipt of the aforesaid application, the respondent no.3 maintained silence and did not take any steps to make payment of the gratuity amount to the petitioner. An application in Form N under the Payment of Gratuity Act, 1972 was filed with the Controlling Authority, being the respondent no.2 herein. Mr. Banerjee further submits that the aforesaid application is pending adjudication and/or the same has not been disposed of. He prays for expeditious disposal of the aforesaid application.

Ms. Pandey, learned advocate appearing for the respondent no.3 submits that the petitioner at the time of retirement was not only offered the Provident Fund accumulations but was also offered the gratuity amount. The petitioner did not accept the gratuity amount at that time. She submits that the aforesaid application is otherwise barred on account of delay and no amount on account of gratuity is payable to the petitioner. She further submits that the respondent no.2 is not the competent authority to adjudicate the claim made by the petitioner. She says that the respondent no.2 lacks the territorial jurisdiction to hear out and/or entertain the aforesaid application, inasmuch as the registered office of the respondent no.3 is situated at 4, Council House

Street, Kolkata, outside territorial jurisdiction of the respondent no.2. She claims that the affairs of the company, is controlled, managed and administered from the registered office and as such, the respondent no.2 is not the controlling authority of the area where the registered office of the respondent no.3 is situated.

In support of the aforesaid, Ms. Pandey relies on an unreported judgment delivered by this Hon'ble Court in W.P. No. 9532 (W) of 2010 (Bhanu Prakash vs. Assistant Labour Commissioner & Ors.).

Mr. Banerjee appearing for the petitioner in reply submits that a judgment is an authority for what it decides. The aforesaid judgment has no manner of application in the facts of the present case. He submits that in the case referred to by Ms. Pandey, the authorities had themselves transfer the matter *suo motu* to Barrackpore which power is not available with the respondents. Mr. Banerjee also denies and disputes the contention raised by Ms. Pandey and submits that the gratuity was never offered to his client.

I have heard the learned advocates appearing for the respective parties and considered the materials on record. I am of the view that the issues raised by Ms. Pandey can well be decided by the respondent no.2.

In such circumstances, I dispose of the present writ

petition by directing the respondent no.2 to hear out and dispose of the petitioner's application filed in Form N dated 4th June, 2019 expeditiously within a period of four months from date.

The respondent no.2, while deciding the aforesaid application shall be entitled to take into consideration the objection raised by the respondent no.3, provided an appropriate application is filed in that regard by the respondent no.3 before the authority concerned.

I, however, make it clear that I have not gone into the merits of the matter either with regard to the merits of the petitioner's claim or with regard to the objection raised by the respondent no.3.

Since I have not called for any affidavits, allegation made in the writ petition are deemed to have been denied by the respondents.

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

(Raja Basu Chowdhury, J.)