

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 10846 of 2022

Prokash Kumar Some
Vs.
The Durgapur Projects Limited & Ors.

Mr. Tathagata Deb
... For the petitioner

Mr. Sujit Shankar Koley
... For the respondents

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

The petitioner is a retired employee of Durgapur Projects Limited (in short "DPL"), the respondent no.1, who retired from services on 30th November, 2015. The petitioner is claiming interest on delayed payment of leave salary.

The petitioner on his retirement was entitled to payment of gratuity and an amount on account of leave salary aggregating to Rs.12,97,321/-. This figure is not in dispute. The petitioner was paid this amount on 27th April, 2017. The date of payment is also not in dispute. The petitioner says that there has been a delay of about 17 months in making of the sum of Rs.4,39,630/- on account of leave salary. The petitioner, therefor, was entitled to interest for delayed payment of the leave salary since the same is part of the retiral benefits.

The petitioner's cause to claim the principal sum on account of leave salary has accrued for the first time after his retirement on 30th November, 2015. On the payment of the principal sum on account of leave salary, the petitioner's cause to claim interest accrued on 27th April, 2017. The wrongful act that caused an injury was complete on 27th April, 2017. There is no continuing wrong even though the damage resulting from the act may have continued after 27th April, 2017. The injury caused by the wrongful act does not continue. The writ petition has been filed only on 15th June, 2022. Moreover, keeping in mind that within three years from 27th April, 2017 the pandemic intervened, I am inclined to grant relief to the petitioner.

The issue relating to claim of interest for delayed payment of leave salary as made in the instant writ petition is 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.). The recent Supreme Court judgment reported in (2022) 4 SCC 627 [Dr. A. Selvaraj v. CBM College & Ors.] also provides for payment of interest on retiral dues if paid belatedly for no fault of the employee. The same is the case over here. 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.4,39,630/- being the amount on account of leave salary calculated on and from 1st December, 2015 till 27th April, 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 Rs.4,39,630/- from 1st December, 2015 till 27th April, 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.)