

16.08.2022
DL-31
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 17073 of 2022

Nibaran Chandra Ghosh
Vs.
The Durgapur Projects Limited & Ors.

Mr. Siddhartha Sarkar
.....for the petitioner.

Mr. S. S. Koley
.....for DPL.

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

The petitioner retired from the services of Durgapur Projects Limited (in short "DPL"), the respondent no.1 with effect from 31st December, 2019 upon attaining the age of superannuation. The petitioner says that he had been paid the gratuity amount at a belated stage for which he is entitled to interest. The petitioner also says that he has not been paid the principal sum on account of leave salary though by an order dated 21st January, 2022 DPL has themselves sanctioned salary equivalent to 300 days towards earned leave to the petitioner. The petitioner claims the principal sum on account of earned leave along with interest for the delay in making payment of the same.

On behalf of DPL, it is submitted that the petitioner overstayed at the residential quarter allotted to him. The petitioner was supposed to vacate the quarter immediately upon his retirement but remained in occupation till 9th December, 2021. The petitioner, therefor, has become liable to pay house rent at penal rate for the period he overstayed thereat.

The date and amount paid on account of gratuity are not in dispute. There has been an admitted delay in making payment of gratuity amount. It is also true that earned leave despite being sanctioned has not been paid. The petitioner, therefor, is entitled to interest for delayed payment of gratuity. However, for non-payment of earned leave, the petitioner cannot accuse DPL since he himself is at a fault by overstaying at the residential quarter. The petitioner, therefor, shall be entitled to the salary equivalent to 300 days towards earned leave less the amount deductible on account of house rent at penal rate.

The respondent no.1 is directed to pay interest to the writ petitioner at the rate of 6 per cent per annum on Rs.9,27,346/- being the amount on account of gratuity calculated on and from 1st January, 2020 till 13th July, 2022 and the balance sum towards leave salary after deducting house rent at a penal rate from the salary equivalent to earned leave along with

interest @ 6% on such principal sum from 9th September, 2021 till actual payment thereof 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 1st January, 2020 till 13th July, 2022.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly without any order as to costs.

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.)