

29.08.2022
DL-11
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 19252 of 2022

Nikhil Kumar 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 was an employee in Durgapur Projects Limited (in short "DPL"), the respondent no.1. The petitioner retired from service on 31st August, 2021. The petitioner on his retirement was entitled to payment of Rs.10,10,350/- on account of gratuity. This figure is not in dispute. The petitioner was paid this amount on 18th July, 2022. The date of payment is also not in dispute. The petitioner says that there has been a delay of about 10 months in making of the said sum of Rs. 10,10,350/- on account of gratuity. The petitioner also says that he has not been paid the principal sum on account of leave salary though by an order dated 5th August, 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.

The petitioner, therefor, is 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 also the principal sum on account of earned leave along with interest for the delay in making payment of the same.

The issues involved 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.). 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.10,10,350/- being the amount on account of gratuity calculated on and from 1st

September, 2021 till 18th July, 2022 and salary equivalent to earned leave of 300 days calculated at the applicable rate along with interest @ 6% on such principal sum from 1st September, 2022 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 September, 2021 till 18th July, 2022 and at the same rate on unpaid leave salary.

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.)