

29.08.2022
DL-13
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 19258 of 2022

Nani Gopal 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 January, 2019. The petitioner on his retirement was entitled to payment of gratuity and an amount on account of leave salary aggregating to Rs.7,34,348/-. This figure is not in dispute. The petitioner was paid this amount on 28th August, 2020. The date of payment is also not in dispute. The petitioner says that there has been a delay of about 18 months in making of the said sum of Rs.7,34,348/- on account of gratuity and leave salary. 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 interest

on the same rate on leave salary since the same is part of the retiral benefits.

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.7,34,348/- being the amount on account of gratuity and leave salary calculated on and from 1st February, 2019 till 28th August, 2020 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 February, 2019 till 28th August, 2020.

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.)