29.08.2022
**DL-20**
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

**WPA 19335 of 2022**

**Rina Das**
**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's husband was an employee of Durgapur Projects Limited (in short "DPL"), the respondent no.1. The petitioner's husband retired from service on 31st January, 2019 upon attaining the age of superannuation. Subsequently, the petitioner's husband died on 9th June, 2021. The petitioner's husband on his retirement was entitled to payment of gratuity of Rs.3,43,938/- and he had been paid the gratuity amount on 10th December, 2020. The petitioner says that there has been a delay of about 22 months in making payment of the said sum of Rs.3,43,938/- on account of gratuity. The petitioner also says that her husband has not been paid the principal sum on account of leave salary though by an order dated 24th August, 2020 DPL has themselves sanctioned salary equivalent to 287.5 days towards earned leave to the petitioner's husband. 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's husband overstayed at the residential quarter allotted to him. The petitioner's husband was supposed to vacate the quarter immediately upon his retirement but remained in occupation thereat even after his retirement. The petitioner's husband, therefor, became 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 to the petitioner's husband. The petitioner, therefor, is entitled to interest for delayed payment of gratuity of behalf of her husband. DPL was not entitled to withhold the leave salary on the ground that the petitioner's husband has over stayed at the residential quarter allotted him. DPL was free to deduct the rent at penal rate and could have paid the balance amount. Having not done so, DPL has exposed themselves to payment of interest. The petitioner, therefor, shall be entitled to the salary equivalent to 287.5 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.3,43,938/- being the amount on account of gratuity calculated on and from 1st February, 2019 till 10th December, 2020 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 the actual date of vacating the quarter 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 February, 2019 till 10th December, 2020 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.**)