

26.09.2022
Ct. no.21
Sl. No.7
Sanjay

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 20188 of 2022

Dipak Kumar Raha
Vs.
The Durgapur Projects Limited & Ors.

Mr. Ayan Banerjee,
Mr. Suman Banerjeefor the petitioner.

Mr. Sujit Sankar Koley ...for the DPL.

Mr. Suman Banerjee, learned advocate led by Mr. Ayan Banerjee, learned counsel appearing on behalf of the writ petitioner submits that despite the office order dated June 14, 2021 wherein leave encashment benefits were calculated and salary equivalent to 297.5 days was credited to the petitioner, the same has not yet been disbursed.

The writ petitioner was a permanent employee of the Durgapur Projects Limited (in short "DPL") which is a Government of West Bengal Enterprise. The petitioner was superannuated with effect from March 31, 2021.

Mr. Koley, learned counsel appearing on behalf of the respondents/DPL submits that there was no communication to him from the part of the employer/DPL. He says that delay in payment of the leave encashment benefits in favour of the petitioner was due to the financial stringency on the part of the employer.

Having considered the rival submissions of the parties and the materials placed on record, this Court finds that financial stringency on the part of the employer cannot be reason for withholding the retiral benefits of the employee.

In the circumstances, the employer/DPL is directed to disburse the leave encashment benefits within three months from date. The writ petitioner is entitled to interest at the rate of 6% per annum from April 01, 2021 (the day succeeding the date of retirement) till the date of actual payment.

Mr. Banerjee, learned counsel for the petitioner further submits that the writ petitioner is entitled to interest on delayed disbursement of his gratuity dues. His gratuity dues were disbursed on November 16, 2021. In the circumstances, the writ petitioner is granted interest at the rate of 6% from April 1, 2021 till November 16, 2021. Such payment of interest is to be made within three months of passing of the order. In the event of any default, rate of interest shall stand increased to 10% per annum.

Since no affidavits have been called for in the instant writ petition all the allegations made therein are deemed not to have been admitted by the respondents.

With the aforesaid directions, the writ petition being **WPA 20188 of 2022** is **disposed of**.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)