

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 11754 of 2020

Bangiya Gramin Vikash Bank & Anr.
Vs.
Union of India & Ors.

Mr. Md. Mokaram Hossain,
Mr. Sandipan Maity
.... For the petitioners.

Mr. Sailendra Kumar Tiwari,
Mr. Jayesh Choraria
... For the respondent no.1.

Mr. Sanjay Saha
... For the respondent 4.

The respondent no.4, being aggrieved by the computation as to the amount of gratuity payable to the said respondent by his employer, the writ petitioner No.1 herein, approached the Controlling Authority under the provisions of Payment of Gratuity Act, 1972 (hereinafter referred to as the said Act). Section 7 of the said Act read with Rule 11 of the Payment of Gratuity (Central) Rules, 1972 which is *pari materia* to Rule 11 of West Bengal Payment of Gratuity Rules, 1973 provides for the method of dealing with an application relating to dispute in computation of the gratuity amount. Ultimately, if the Controlling Authority is satisfied that the employee is entitled to payment of gratuity, a direction is given under Rule 17 of the Payment of Gratuity (Central) Rules, 1972. An order so

passed under Rule 17 of the 1972 Rules is appealable under Rule 18 of the said rules. In the instant case, the Controlling Authority has passed an order in favour of the respondent no.4. The writ petitioners, being the employer have challenged such order in the writ petition. In view of the provisions of appeal laid down in Section 7 of the 1972 Act read with Rule 18, the order of the Controlling Authority is an appealable order. The writ petition challenging the order of the Controlling Authority is, therefor, not maintainable in view of the alternative statutory remedy available to the writ petitioners. The writ petitioners without exhausting its remedy of appeal cannot directly approach this Court in its writ jurisdiction challenging the order of the Controlling Authority. Confronted with this question, the writ petitioners say that the order is a wrong order and should be construed to be one without jurisdiction. The same can as such be challenged in writ jurisdiction without filing an appeal. I am, however, not inclined to accept such contention in view of the specific statutory provisions.

The writ petition is, thus, dismissed.

The dismissal of the writ petition will, however, not prevent the petitioners from preferring an appeal in accordance with law under the provisions of the Payment of Gratuity Act, 1972 and the Rules framed

thereunder.

Since I have not called for any affidavits, allegation 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.)