

17.01.2023
DL-41
S.D.
Ct.21

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 578 of 2023

Ashima Modak
Vs.
The Durgapur Projects Limited & Ors.

Mr. Siddhartha Sarkar
Mr. Prasad Bhattacharyya
....for the petitioner.

Mr. S. S. Koley
....for DPL.

Affidavit of service filed in Court today be retained with the records.

The husband of the writ petitioner was a permanent employee of the Durgapur Projects Limited (in short 'DPL'), which is a Government of West Bengal enterprise.

The husband of the petitioner expired on January 3, 2020. The gratuity dues of the writ petitioner aggregating Rs.4,37,968/- was paid on July 26, 2022. Neither quantum of gratuity nor the date of payment is in dispute.

Mr. Sarkar, learned Counsel, appearing on behalf of the writ petitioner prays for interest on gratuity payable to the writ petitioner from January 4, 2020 (the date succeeding the date of expiry of the

husband of the writ petitioner) till July 26, 2022 (the date on which the gratuity dues were actually paid).

The learned counsel, appearing on behalf of the writ petitioner, also prays for earned leave amount of Rs.15,488/- which has not been paid till date. He further prays for interest on the earned leave, due and payable to the writ petitioner.

The quantum of earned leave, due and payable to the petitioner's husband is not in dispute.

The issue has been squarely settled by various Judgements passed by a Co-ordinate Bench of this Hon'ble Court.

Relying on the judgements on the same issue and considering the facts of the case it is directed that the writ petitioner is entitled to get interest on the delayed payment of her gratuity dues from January 4, 2020 till July 26, 2022 at the rate of 6% per annum.

The writ petitioner is also entitled to earned leave amount of Rs.15,488/- and interest thereon @ 6% per annum from January 4, 2020 till the date on which the actual payment is made.

The respondent authority/DPL is directed to pay the aforesaid payment within six months from date. In the event, the said amount is not disbursed within

the stipulated period, the rate of interest will stand enhanced to 10% per annum being the statutory rate under the payment of Gratuity Act, 1972.

With the directions aforesaid, the writ petition, being **WPA 578 of 2023**, is **disposed of**.

Since no affidavits have been called for in the writ petition, the allegations contained therein be deemed not to have been admitted by the respondents.

Needless to mention, in case the petitioner has occupied the quarter granted by the employer after his retirement the occupation charges for the said quarter will be deducted from the retiral benefits that the petitioner is entitled to as per the extant rules and policies of the employer/DPL.

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.)