

IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE

**WPA 12131 of 2023**

Sushil Kumar Pandey  
Vs.  
The State of West Bengal & Ors.

Mr. Balai Paul  
Mr. Debanshu Ghorai  
... For the petitioner.

Mr. Subhendu Sengupta  
... For the State.

1. The present writ application has been filed, inter alia, praying for a direction upon the Certificate Officer, being the respondent no.3, to execute the certificate dated 9<sup>th</sup> November, 2022.

2. It is the case of the petitioner that the petitioner was appointed as an Assistant Teacher of Shree Maheswari Vidyalaya. The petitioner reached the age of superannuation on 19<sup>th</sup> January, 2012. Since the gratuity was not disbursed in favour of the petitioner, the petitioner had applied in Form 'I' before the school authorities for disbursement of his gratuity. Despite receipt of such application, since the school authorities did not take any steps, the petitioner had filed an application in Form N on 6<sup>th</sup> January, 2017 before the Controlling Authority. The said proceeding was contested by the school and ultimately by a notice in Form 'R' dated 13<sup>th</sup> February, 2019, the respondent no.4 was directed to make payment

of a sum of Rs.14,22,906/- towards gratuity payable to the petitioner. Since the respondent no.4 did not take any steps for compliance of the aforesaid direction, the petitioner was compelled to initiate a proceeding under Section 8 of the Payment of Gratuity Act, 1972 (hereinafter referred to as the said Act.)

3. Following the aforesaid, the Controlling Authority appears to have issued a certificate dated 9<sup>th</sup> November, 2022 and had also forwarded the same to the Certificate Officer for execution.

4. The petitioner says that despite receipt of such notice, since the Certificate Officer did not take any steps for execution of the certificate, the present writ application has been filed.

5. On 28<sup>th</sup> June, 2023, when the matter came up for consideration, since despite service, none appeared on behalf of the respondents, this Court was pleased to direct Mr. Subhendu Sengupta, learned advocate, who usually appears for the State and who was present in Court, to be served with a copy of the writ application for him to take appropriate instructions in the matter.

6. Today, Mr. Sengupta, learned advocate, on instruction, submits that on the basis of the requisition forwarded by the Controlling Authority a case being No.78/Misc./2022 has been registered. On 9<sup>th</sup> March,

2023, when the matter was considered by the Certificate Officer, since the certificate debtor was not represented, the Certificate Officer was, inter alia, pleased to direct a notice to be served on the certificate debtor through Post as also through Police Station. On 27<sup>th</sup> April, 2023, despite service of notice on the certificate debtor through the local police station, since, the certificate debtor was not represented the matter has been fixed for further consideration on 10<sup>th</sup> July, 2023. Copies of the order sheet as produced by Ms. Sengupta in Court today is taken on record.

7. Mr. Ghorai, learned advocate representing the petitioner submits that the petitioner is a senior citizen and is suffering from divers ailments. By drawing attention of this Court to a certificate dated 4<sup>th</sup> August, 2022 issued by Dr. Pratim Sengupta, it is submitted that the petitioner is suffering from chronic renal failure and is on maintenance hemodialysis. It is submitted that unless the certificate issued by the Controlling Authority is executed, and the certificate dues are realized from the certificate debtor and the same is disbursed in favour of the petitioner, the petitioner will suffer irreparable loss and injury.

8. Heard the learned advocates appearing for the respective parties and considered the materials on record. It would appear from the records that the petitioner was

an Assistant Teacher of Shree Maheswari Vidyalaya. After rendering more than 37 years of service he had been superannuated on 19<sup>th</sup> January, 2012. Since the gratuity amount was not disbursed in favour of the petitioner by the school, the petitioner had applied before the Controlling Authority for determination of gratuity by filing an application in Form N. On contested hearing, the Controlling Authority had determined the gratuity payable to the petitioner and had called upon the respondent no.4 to make payment of the gratuity so determined by issuing a notice in Form 'R' dated 13<sup>th</sup> February, 2019. Since the school did not adhere to the notice in Form R, the petitioner was compelled to initiate a proceeding under Section 8 of the said Act and ultimately, the Controlling Authority on 9<sup>th</sup> November, 2022 had issued a certificate under Section 8 of the said Act and had forwarded the same to the Certificate Officer.

9. From a perusal of the order sheet as aforesaid it appears that the respondent no.4 has been avoiding the certificate proceedings. In fact, the respondent no.4 has also not even bothered to appear before this Court. I find that no statutory appeal has also been filed by the respondent no.4.

10. Having regard to the aforesaid I am of the view and accordingly direct the Certificate Officer to dispose of the certificate proceeding in accordance with law, as

expeditiously as possible, preferably within a period of six months from the date of communication of this order.

11. Needless to note, if any application is filed by the certificate debtor, the same would be disposed of by the Certificate Officer, in accordance with law.

12. With the aforesaid observations and directions, the writ application is disposed of.

13. There shall, however, be no order as to costs.

14. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of necessary formalities.

**(Raja Basu Chowdhury, J.)**