

17.08.2023.
Court No.550
Item No. 178
ap

W.P.A. No. 14587 of 2022

**Keshem Sk.
Versus
The State of West Bengal & Ors.**

Mr. Rananeesh Guha Thakurta,
Ms. Senjuti Sengupta,
Ms. Dipa Roy.

...For the petitioner.

Mr. Bipin Ghosh.

...For the respondent nos.3 & 4.

Mr. Amrita Pandey,
Mr. Ghanshyam Pandey,
Ms. Sneha Singh.

...For the respondent no.5.

1. The present writ petition has been filed, inter alia, praying for a direction upon the respondent no.4 to execute the certificate dated 17th December, 2021 issued under Section 8 of the Payment of Gratuity Act, 1972 (hereinafter referred to as 'the said Act').

2. The petitioner claims to have been appointed by the respondent no.5. After rendering service of 38 years, he was superannuated on 1st January, 2014. Since, the gratuity was not disbursed in favour of the petitioner, he had applied before the Controlling Authority under the said Act by filing an application in form N.

3. Subsequently, by an order dated 9th July, 2021 the Controlling Authority was, inter alia, pleased to determine a sum of Rs.2,24,386.63 towards the principal amount of gratuity payable to the petitioner

and a sum of Rs.1,66,270.29 as interest, aggregating to a sum of Rs.3,90,657.00 only.

4. Consequent upon determination of gratuity as aforesaid, a notice in form-'R' was issued by the Controlling Authority calling upon the respondent no.5 to make payment of the aforesaid amount on account of gratuity so determined to the petitioner.

5. Since the respondent no.5, despite notice did not make payment of gratuity, the petitioner had filed a proceeding under Section 8 of the said Act, for issuance of a certificate. At the instance of the petitioner, the Controlling Authority has issued a certificate under Section 8 of the said Act and forwarded the same to the Office of the respondent no.4 for execution.

6. Complaining inaction on the part of the respondent no.4, the present writ petition has been filed.

7. During the pendency of the aforesaid writ petition, it was confirmed by Mr. Guha Thakurta, learned advocate representing the petitioner that the respondent no.5 has made over seven cheques aggregating Rs.3,90,657.00 to the petitioner towards payment of principal amount of gratuity, which was accepted without prejudice to the rights of the petitioner. Such fact is recorded in the order dated 7th September, 2022. Since, Mr. Ghosh, learned advocate appearing on behalf of the respondent no.4 had sought for leave to bring on record certain documents with

regard to the payment of gratuity amount, the matter was adjourned and posted under the heading “for orders” on 19th September, 2022.

8. On 19th September, 2022 when the aforesaid writ petition was taken up for hearing, the learned advocate representing the respondent no.5 had submitted that the respondent no.5 intends to file the affidavit-in-opposition to the present application.

9. Having regard to the same, liberty was granted to the respondents to file affidavit-in-opposition to the present application.

10. Despite direction, no affidavit-in-opposition has been filed on behalf of the respondent no.5. The respondent no.4 has, however, filed an affidavit-in-opposition today in Court, which is taken on record.

11. After hearing the submissions made by the learned advocate for the respective parties, and after going through the certificate issued under Section 8 of the said Act, it appears that the said certificate has been issued for recovery of a sum of Rs.3,90,657/- towards gratuity which includes simple interest, as also for recovery of compound interest at the rate of 15% per annum from 9th August, 2021 i.e. the date of expiry of the time mentioned in the direction, till the date of recovery (Rate of interest being in accordance with Notification No.1032(E) dated 1st December, 1987 issued under Section 8 of the said Act). As such I am

of the view that no useful purpose will be served by keeping the instant writ petition pending.

12. Admittedly, it appears that a sum of Rs.3,90,657/- has already been disbursed in favour of the petitioner. What remains is the compound interest. The interest portion has already been computed by the respondent no.4, as would appear from the letter dated 30th November, 2022 which is appearing at page 10 of the affidavit affirmed by the respondent no.4 on 11th January, 2022.

13. Having regard to the same, I am of the view that the present writ application can be and is accordingly disposed of by directing the respondent no.4 to take steps for expeditious disposal of the certificate proceedings in accordance with law and to conclude the same preferably within a period of three months from the date of communication of a copy of this order after giving an opportunity of hearing to the Certificate Debtor.

14. With the aforesaid directions and observations made hereinabove, the instant writ petition stands disposed of.

15. There will be no order as to costs.

16. Urgent photostat certified copy of this order, if applied for, be supplied to the parties on usual undertakings.

(Raja Basu Chowdhury, J.)

