

04.12.2023
Court No. 13
Item No. 142
AP

WPA 15973 of 2021

**Prabir Kumar Ghosh
Vs.
Union of India and Anr.**

Mr. Aniruddha Datta
Mr. A.K. Khan

... For the Petitioner.

Mr. S. Pal
Mr. S. Pal Choudhuri
Ms. Diya Nandi

... For the Respondents.

1. The issue raised in the writ petition is the quantum of gratuity paid to the employees of the former United Bank of India, now merged with the Punjab National Bank. Both the banks are bodies corporate within the meaning of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970.

2. The petitioner was an officer employee of the bank. He superannuated from his service on 30th November, 2017. He had completed 31 years 11 months and 15 days of service as on the said date.

3. In terms of the Officers Service Regulations of the Bank, 1979 as amended from time to time, the expression “pay” for the purpose of gratuity has excluded the DA component from its purview.

4. Counsel for the petitioner would argue by reference to Section 2(s) of the Payment of Gratuity Act, 1972 that

the expression “wages” must and should include DA as a component in terms of Section 2(s) and Section 14 of the said Act of 1972 mandates an overriding effect on any other Statute, Rule or contract made under any law or by any authority.

5. Learned counsel further argued before this Court that the expression “pay” of the Banks Officers’ Service Regulation, 1979 (OSR) must be suitably read down and/or declared ultra vires of 1972 Act to the extent that it does not include DA.

6. It appears to this Court that the argument is rather attractive but academic. The maximum gratuity under the Act of 1972 prior to 2018 is Rs.10 lakhs. The petitioner has received a sum of Rs.10 lakhs towards gratuity under the OSR of the Bank. Since the same touches the maximum payable to an employee under the 1972 Act, the first argument of the petitioner need not be entertained by this Court.

7. Insofar as Sub-clause 2 of the Regulation 46 of the OSR and the provisos thereunder, it appears that an officer employee, who has completed more than 30 years of service, shall be eligible by way of gratuity an additional amount at the rate of 1 half of a month’s pay for each completed year of service beyond 30 years.

8. Since the petitioner has completed 31 years 11 months 15 days of service, the respondent Punjab National

Bank shall pay the petitioner the balance sum of rupees equivalent to 15 day's salary each for a rounded of period of two years, if not already paid.

9. In the event the aforesaid amount is not paid, the same shall carry interest at the rate of 7 percent per annum on and from the date of 30th November, 2017 till the date of actual payment.

10. With the aforesaid directions, the writ petition is disposed of.

11. There shall be no order as to costs.

12. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)