

20.09.2023
Item No.18
Court No.550
Saswata

W.P.A. 21140 of 2023
Bejoy Kumar Das @ Bejoy Kr. Das
Versus
The State Government of West Bengal & Ors.

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

... For the petitioner

Mr. Priyankar Saha
Mr. D. Dinda

...For the State

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

...For the respondent no. 5

1. Affidavit of service filed in Court today is retained with the record.
2. The present writ application has been filed, inter alia, praying for a direction upon the certificate officer to execute the certificate dated 22nd February 2023 issued under Section 8 of the Payment of Gratuity Act, 1972 (hereinafter referred to as the “said Act”).
3. It is the petitioner’s case that the petitioner had joined the service of the respondent no. 5 on 1st April 1977 and was superannuated on 1st January 2016. Since, the respondent no. 5 did not disburse gratuity in his favour, the petitioner was compelled to apply before the Controlling Authority under the said Act, whereupon a gratuity case being no. G-12 of 2020 was registered. By an order dated 1st November 2022, the respondent no. 2 was, inter alia, pleased to determine the gratuity payable in favour of the petitioner and by a notice in Form – ‘R’ of even date was, inter alia, pleased to call upon the

respondent no. 5 to make payment of the gratuity. Since, the gratuity was not disbursed in favour of the petitioner despite the aforesaid notice, the petitioner was compelled to initiate a proceeding for issuance of a certificate under Section 8 of the said Act.

4. Records would reveal that the Controlling Authority, by a communication in writing dated 30th December 2022 had issued a show cause notice calling on the respondent no. 5 why the certificate under Section 8 of the said Act shall not be issued. Since, the respondent no. 5 did not respond to the same, on 22nd February 2023, the respondent no. 2 was, inter alia, pleased to issue a certificate and had also forwarded the same to the respondent nos. 3 and 4 for execution.
5. Mr. Guha Thakurta, learned advocate appearing for the petitioner submits that no steps have been taken by the Certificate Officer for execution of the aforesaid certificate. It is submitted that unless this Court passes a specific direction calling upon the respondent no. 4 to execute the certificate, the petitioner shall not be able to recover his legal dues.
6. Mr. Saha, learned advocate enters appearance for the State authorities. By placing before this Court, a communication dated 1st September 2023, which is taken on record, he submits that the certificate officer has already taken steps for execution of the certificate. Notice of hearing has already been issued. Despite such notice, since the respondent no.5 chose not to appear,

- steps have already been taken for issuance of a show cause as to why warrant of arrest shall not be issued.
7. Ms. Pandey, learned advocate enters appearance for the respondent no. 5. She denies and disputes the allegations raised by the petitioner.
 8. Heard the learned advocates appearing for the respective parties and considered the materials on record. Admittedly, in this case I find that a determination has already been made by the Controlling Authority in respect of the gratuity payable to the petitioner. Despite receipt of Form-‘R’ since, the respondent no. 5 did not disburse the gratuity, proceeding had been initiated for issuance of a certificate under Section 8 of the said Act. Ultimately, a certificate under the provision of the said Act having been issued by the Controlling Authority, the same was forwarded to the concerned certificate officer for execution. From the submission made by the learned advocate appearing for the State authorities and the notice dated 1st September, 2023, I find that steps have already been taken by the concerned certificate officer for execution of the certificate.
 9. Having regard to the aforesaid, I am of the view that no order is required to be passed at this stage.
 10. The writ application being WPA 21140 of 2023, thus, stand ***disposed of***.
 11. Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis upon completion of requisite formalities.

(Raja Basu Chowdhury, J.)