

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 27157 of 2022

Sandip Singha & Ors.
Vs.
The State of West Bengal & Ors.

For the petitioners : Mr. Bikash Shaw

For the respondent no.3 : Mr. Apurba Kumar Ghosh,
Mr. Rudranil Ghosh,
Mr. Annyasha Chakraborty

Heard on : 09.02.2023

Judgment on : 09.02.2023

Raja Basu Chowdhury, J:

1. Affidavit of service filed in Court is kept with the record.
2. At the very outset, Mr. Shaw, learned advocate appearing for the petitioners submits that the present writ application pertains to four several proceedings pending before the controlling authority constituted under the Payment of Gratuity Act, 1972 (hereinafter referred to as the "said Act"). Since, the cause of action for each of the petitioners are

distinct and separate, he elects to maintain the present writ application insofar as the petitioner no. 1 is concerned. In view thereof, insofar as the petitioner nos. 2 to 4 are concerned, the same be dismissed as withdrawn with liberty to file afresh on the self-same cause of action.

3. The present writ application has been filed, inter alia, praying for a direction upon the respondent no.2 to forthwith dispose of the gratuity proceedings pending before him. The petitioner no. 1 claims to be the legal heir of one, Bimal Kumar Singha (hereinafter to as the “deceased workman”), who during his life time was employed with the respondent no. 3. It is submitted that the deceased workman had been appointed sometime in the year 1977. Despite putting 29 years of service, since the respondent no. 3 did not make payment of the gratuity, the deceased workman was constrained to file an application in “Form-I” before the respondent no. 3. Since, the respondent no. 3 did not comply with his request in “Form-I”, an application in “Form-N” was filed by the deceased workman before the controlling authority. During pendency of such proceedings, the deceased workman died.
4. Mr. Shaw submits that the controlling authority, subsequent to the death of the deceased workman, did not take any steps on the basis of the application filed by the deceased workman,

who is predecessor-in-interest of the petitioner no. 1. It is for such reason, the petitioner no. 1 also could not file any application, praying for substitution. It is submitted that the proceedings on account of non-payment of gratuity payable to the deceased workman is pending before the controlling authority. He says that the petitioner no. 1 is entitled to the gratuity payable to the deceased workman on the basis of determination to be made by the controlling authority. He says that the Controlling Authority has not taken any steps in the matter. Unless this Court issues specific direction and directs the controlling authority to dispose of the pending application by granting liberty to the petitioner no. 1 to apply before the controlling authority, the petitioner no.1 shall suffer irreparable loss and injury.

5. Mr. Ghosh, learned advocate appearing for the respondent no. 3 submits that pursuant to a Court sale, initiated sometime in the year 2001, the management of the respondent no. 3 has changed and the deceased employee was never an employee of the present management of the respondent no. 3. He, however, does not question the authority of the Controlling Authority to adjudicate the proceedings filed by the deceased workman in "Form-N".
6. Having heard the learned advocates appearing for the respective parties and having considered the materials on

record, I am of the view that no useful purpose will be served by keeping the writ application pending.

7. In view thereof, I propose to and do hereby dispose of the present writ application by directing the respondent no. 2 to expeditiously dispose of the gratuity proceedings filed by the deceased workman in Form-'N' forming annexure P-2 to the present application, by permitting the petitioner no. 1 to apply in such pending proceedings for being added as party to such proceedings. The respondent no. 2 shall consider the application to be filed by the petitioner no. 1 in accordance with law without being influenced by any observations made herein and shall hear out and dispose of the proceedings pending before him as aforesaid, as expeditiously as possible preferably within a period of three months from the date of communication of this order upon giving reasonable opportunity of hearing to the parties.
8. The writ application being WPA 27157 of 2022 is accordingly ***disposed of.***
9. 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.)

