

Ct. No.23
15.04.2024
DL-12
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 4259 of 2024

Rabindranath Das
Versus
The State of West Bengal & Ors.

Mr. Rananeesh Guha Thakurta,
Ms. Dona Ghosh,
Ms. Senjuti Sengupta,
Ms. Dipa Ray
... for the petitioner.

Mr. Sirsanya Bandopadhyay,
Ms. Tapati Samanta,
Ms. Arindam Ghosh
....for the State.

Mr. Arkadyuti Pahari,
Mr. Debangshu Moullick,
Mr. Supratik Jana,
Mr. Soham Kumar,
Ms. Gargi Maity
....for the respondent no.4.

Supplementary affidavit filed in Court today on behalf of the petitioner is taken on record. A copy of the supplementary affidavit has already been served on the respondents.

The petitioner says that the petitioner was an employee under the respondent no.4. The petitioner's appointment letter is annexed at page 22 of the writ petition. It will appear from the said appointment letter that the petitioner was required to work at the factory of respondent no.4 as also in the office of the said respondent. The service of the petitioner was terminated by a letter dated 17th August, 2017. The termination,

however, was to come effect from 10th November, 2017, though there is some typographical mistake in the said letter which appears at page 25 of the writ petition. The petitioner says that by accepting the termination, the petitioner had lodged his claim for gratuity before the Controlling Authority and for other benefits before the Referee under the West Bengal Shops and Establishment Act, 1963 (in short 1963 Act).

The Controlling Authority under the Payment of Gratuity Act, 1972 (in short, 1972 Act) at Kolkata by an order dated 25th January, 2019 directed the petitioner to approach the Controlling Authority at Alipore as the said authority is competent to receive, try and determine the application and not the Authority at Kolkata. The Referee under the 1963 Act, being incidentally the same person, had also directed the petitioner to approach the very competent authority at Alipore for adjudication of the petitioner's claim under the 1963 Act.

It now reveals from the website of the Ministry of Corporate Affairs that the respondent no.4 has its registered office at P-43, Rabindra Sarani, 2nd Floor, Kolkata – 700 001. Thus the registered office of the respondent no.4 falls within the jurisdiction of the Controlling Authority at Kolkata even if the factory at Budge Budge may be conferring jurisdiction at Alipore. As will appear from the appointment letter that the petitioner

was required to work at the factory as also in its office which includes the registered office which is under the Kolkata Authority.

The claim of the petitioner on account of gratuity is Rs.1,79,968/-. A sum of Rs.44,987/- is admitted by the employer (respondent no.4). The said admitted sum of Rs.44,987/- with simple interest @ 10% per annum from 2nd December, 2019 (being the date of admission at page 37 of the writ petition) be paid by the respondent no.4 to the petitioner within 30th April, 2024.

Since the registered office of the respondent no.4 is within the jurisdiction of the Controlling Authority at Kolkata, the Controlling Authority at Kolkata is directed to hear the petitioner's case for gratuity and other benefits under 1963 Act. In the event the petitioner approaches the Controlling Authority under the 1972 Act and also being the authority under the 1963 Act by 24th April, 2024, the Controlling Authority under the 1972 Act as also the Referee under the 1963 Act shall decide the petitioner's case as expeditiously as possible, but not beyond 4 months from the date of filing such claims with a server copy of this order. The Authorities shall not insist upon production of a certified copy thereof.

The Controlling Authority under the 1972 Act and the Referee under the 1963 Act shall decide only as to the validity of the claim over and above the sum of

Rs.44,987/-, which figure is admitted by the respondent no.4 and also not disputed by the petitioner.

The payment of Rs.44,987/- with interest as directed and receipt thereof respectively by the respondent no.4 and the petitioner shall, however, be without prejudice to the rights and contention of the said parties before the Controlling Authority under the 1972 Act and the Referee under the 1963 Act.

It is made clear that I have not gone into the merits of the matter and the authority concerned shall be free to decide on each issue afresh without being influenced by any observations made in this order.

The impugned order dated 25th January, 2019 passed by the Controlling Authority at Kolkata under the 1972 Act directing the petitioner to approach the competent authority at Alipore is also set aside.

Nothing further remains to be adjudicated in this writ petition. The same is disposed of accordingly.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Arindam Mukherjee, J.)