

05.04.2024
Sl. No.7
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 5568 of 2024

Subir Kumar Mitra & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Bikash Shaw,
Sk. S. N. Islam

....for the petitioners.

Mr. Apurba Kumar Ghosh,
Ms. Annyasha Chakraborty,
Mr. Rudranil Ghosh

.....for the respondent no.3.

The writ petitioners are eight in number, being the workmen/employees of India Machinery Co. Ltd., which was purchased in a court sale by respondent no.3. The petitioners had lodged their respective claim on account of gratuity payable under the Payment of Gratuity Act, 1972 (hereinafter referred to as the 1972 Act) before the Controlling Authority as the respondent no.3 has disowned such liability for payment of gratuity for the period prior to the said respondent purchasing company in court sale. The petitioners, therefor, approached the respondent no.2, being the Controlling Authority under the 1972 Act. The Controlling Authority did not take any step for a considerable period of time which compelled the petitioners to approach this Court on an earlier occasion by filing a writ petition, being WPA 27155 of

2022 (Subir Kumar Mitra & Ors. vs. The State of West Bengal & Ors.). The said writ petition was disposed of by an order dated 25th January, 2023 by directing the respondent no.2 to expeditiously hear out and dispose of the application filed by the petitioners in Form - 'N' preferably within a period of 6 months from date after giving opportunity of hearing to the parties.

Despite such order, the Controlling Authority has proceeded in respect of only petitioner no.1. The case of the other petitioners have, however, not been proceeded with, according to the petitioners.

The petitioners say that the case of the petitioner no.1 should be disposed of expeditiously and the case of the other petitioners be proceeded with and brought to a logical conclusion at the earliest.

The respondent no.3 submits that it has no obligation to pay gratuity to the writ petitioners.

The writ petitioners, therefor, pray that the Controlling Authority should be directed to dispose of the matter as expeditiously as possible and within a time-bound manner since the said authority could not adhere to the direction given by this Court in the order dated 25th January, 2023 passed in WPA 27155 of 2022.

The respondent no.3 raises objection on the merit of the matter. The writ Court at this stage is not required to decide on the merits of the matter.

In the aforesaid facts and circumstances, the respondent no.2 is directed to dispose of the case of the petitioners within 3 months from the date of communication of a server copy of this order without insisting upon the production of a certified copy thereof granting any unnecessary adjournment to either of the parties.

The respondent no.2 is also directed to initiate the proceedings relating to the claim of the petitioner nos.2 to 8 and bring the same to a logical conclusion within a period of 6 months from the date of communication of a server copy of this order.

It is expected that the respondent no.2 should abide by the time-frame provided in this order as no substantial progress has been made in the matter despite there being an order passed on 25th January, 2023 and give finding on each of the issues that may arise before including the liability of the respondent no.3 to pay the gratuity.

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

Since I have not gone into the merits of the case, the respondent no.2 will be at liberty to independently decide each of the issues involved in the matter without being influenced in any manner by the observations made in the instant order.

Since I have not called for any affidavits, allegations made in the writ petition are deemed to have not been admitted by the respondents.

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

(Arindam Mukherjee, J.)