

Court No. 238

WPA 7120 of 2024

15.04.2024

(AD 5)

Basantapur Education Society, being represented by
its Secretary Sariful Islam Biswas

(S. Banerjee)

Vs.

The State of West Bengal & Ors.

Mr. Golam Mastafa

Mr. T. S. Samanta

... for the petitioner

Mr. Sirsanya Bandyopadhyay

Mr. Ritesh Kumar Ganguly

... for the State

Mr. Robiul Islam

Mr. Ranu Mondal

Mr. M. Rahaman

... for the respondent no. 4

The petitioner is a registered society which runs an engineering college namely, Domkal Institute of Engineering and Technology, Berhampore, Murshidabad.

By filing this writ petition, the petitioner has challenged an order dated February 9, 2024 passed by the Appellate Authority under the Payment of Gratuity Act, 1972, affirming an order dated May 26, 2023 passed by the Controlling Authority under the said Act of 1972.

Respondent no. 4 was a Laboratory Attendant of the college. After serving about 15 years, he was terminated. His claim for Gratuity filed by a duly prescribed form before the college was not entertained.

Thereafter, he lodged his claim before the Controlling Authority. The Controlling Authority determined that respondent no. 4 was entitled to a sum of Rs. 1,81,105/- only towards Gratuity. The petitioner's appeal before the Appellate Authority was also turned down.

Mr. Golam Mastafa, learned advocate appearing for the petitioner, submits that the Appellate Authority as well as the Controlling Authority ignored the fact that the petitioner had filed his claim belatedly, after a lapse of about six months, whereas Rule 7 of the Payment of Gratuity (Central) Rules, 1972, requires an employee to apply for his Gratuity claim within 30 days from the date the Gratuity becomes payable to the employee.

I am unable to accept the contention of the petitioner.

Rule 7(1) of the Payment of Gratuity Rules (Central), 1972 reads:

“An employee who is eligible for payment of gratuity under the Act, or any person authorized, in writing, to act on his behalf, shall apply, ordinarily within thirty days from the date the gratuity became payable, in Form 'T' to the employer.

Provided that where the date of superannuation or retirement of an employee is known, the employee may apply

to the employer before thirty days of the date of superannuation or retirement.”

Again, Rule 7(5) of the aforesaid Rules is quoted below:

“An application for payment of gratuity filed after the expiry of the periods specified in this rule shall also be entertained by the employer, if the applicant adduces sufficient cause for the delay in preferring his claim, and no claim for gratuity under the Act shall be invalid merely because the claimant failed to present his application within the specified period. Any dispute in this regard shall be referred to the controlling authority for his decision.”

The Rules specifically provide that the application has to be made ‘ordinarily’ within 30 days from the date from which gratuity became payable to the employee.

An application beyond 30 days cannot be said to be barred by limitation, particularly when Rule 7(5) as quoted above categorically provides that mere delay in filing application within the specified period shall not invalidate a claim.

In that view of the matter, I am not inclined to entertain this writ petition.

Accordingly, WPA 7120 of 2024 is dismissed.

(Kausik Chanda, J.)