

**WPCT 121 of 2024**

(Pradip Kumar Paul Vs. Union of India & Ors.)

**Mr. Ujjal Ray**

**Mr. Arpa Chakraborty**

**..... For the petitioner**

**Mr. R. N. Bag**

**Ms. Sharmila Datta**

**Mr. Surjanil Das**

**Ms. Anasuya Bhattacharya**

**.... For the respondents**

Affidavit-of-service filed by the petitioner be kept on record.

The present writ petition has been preferred challenging the refusal of the learned Tribunal to direct the respondents to pay interest over an amount of Rs. 3,35,423/- illegally deducted from the gratuity payable to the petitioner on the date of his retirement.

Mr. Ray, learned advocate appearing for the petitioner submits that no disciplinary proceeding was initiated against the petitioner nor was he in possession of any Railway Quarter. The amount was purportedly deducted since a co-employee, namely, Mr. T.K. Dutta had an outstanding amount of Rs. 3,35,423/- payable to a bank from which he availed a loan and as the said amount could not be recovered from Mr. T.K. Dutta prior to his voluntary retirement. In the said conspectus of facts and even after arriving at a finding that the respondents had illegally deducted the said amount of Rs.3,35,423/- from the gratuity payable to the petitioner, the learned

Tribunal though directed the respondents to refund the said amount but refused to grant interest for withholding the said amount.

He argues that claiming refund with interest, the petitioner preferred the original application making specific averments and prayer but the learned Tribunal glossed over the said issue. Such infirmity warrants interference of this Court.

Answering our query, Mr. Ray submits that after delivery of the judgment on 23<sup>rd</sup> November, 2023, the gratuity amount of Rs.3,35,423/- has been disbursed in favour of the petitioner on 1<sup>st</sup> February, 2024. For the period from 1<sup>st</sup> February, 2021 till 31<sup>st</sup> January, 2024, the respondents should be directed to pay interest.

Mr. Bag, learned advocate appearing for the respondents denies and disputes the contention of the petitioner and submits that the petitioner was a guarantor in respect of the loan received by the co-employee, namely, T.K.Dutta from a private bank. Since the said bank did not disclose such facts to the respondents, the outstanding dues could not be recovered from Mr. T.K. Dutta, prior to his retirement. The petitioner was the guarantor and as such burden shifted upon him after the failure of Mr. T.K. Dutta to refund the loan amount.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Records would reveal that the petitioner retired from his service on 31<sup>st</sup> January, 2021. A co-employee of the petitioner, namely, T.K. Dutta availed a loan of Rs.3,35,423/- from the private bank and did not repay the same prior to his retirement on 29<sup>th</sup> February, 2020. The respondents thereafter deducted an amount of Rs.3,35,423/- from the gratuity of the petitioner. No disciplinary proceeding was initiated against the petitioner. Furthermore, T.K. Dutta was granted voluntary retirement by the respondents without ascertaining as to whether any dues were payable by the said incumbent. From the said sequence of facts, it appears that the respondents deducted the said amount of Rs.3,35,423/- from the petitioner's gratuity without any justifiable reason and in the absence of laches on the part of the petitioner.

Interest is not a penalty or punishment at all, but it is the normal accretion on capital. Hence, equity demands that an admitted amount which has been withheld, needs to be repaid along with interest thereon.

Gratuity is claimable as a matter of right and such right is in the nature of a property in the hands of a retired employee and not a mere bounty. For the lapses

on the part of the authorities, the petitioner cannot be made to suffer.

In the said conspectus, in our opinion, the learned Tribunal ought to have directed payment of interest.

Accordingly, the order dated 23<sup>rd</sup> November, 2023 passed by the learned Tribunal in the original application being O.A. 350/01759/2021 is modified and the writ petition is disposed of directing the respondents to pay interest at the rate of 8% per annum over the withheld amount i.e., Rs.3,35,423/- @ 8 % per annum with effect from 1<sup>st</sup> February, 2021 till 31<sup>st</sup> January, 2024.

The above interest amount shall be calculated by the respondents and disbursed in favour of the petitioner within a period of 6 (six) weeks from the date of communication of this order.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

**(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)**