

07. 05. 2024

BP
Sl. 4
Court No. 23

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 12824 of 2024

Raj Kishore Singh
Vs.
The State of West Bengal & Ors.

Mr. Rananeesh Guha Thakurta
..for the petitioner

Mr. Susovan Sengupta
Mr. Manas Kumar Sadhu
..for the State

Mr. S.K. Singh
Mr. R.K. Dubey
..for the respondent no.4

The petitioner's claim for gratuity was adjudicated by the Controlling Authority under the Payment of Gratuity Act, 1972 (hereinafter referred to as the '1972 Act') by an order dated 27th April, 2016. The employer (respondent no.4) preferred a review of the said order dated 27th April, 2016. The said review was dismissed. Subsequently an appeal was preferred and the said appeal has also been dismissed. A certificate was obtained in terms of the provisions of Section 8 of the 1972 Act on the basis of the order passed by the Controlling Authority dated 27th April, 2016. The Controlling Authority had directed payment of Rs. 3,10,612/- together with simple

interest @ 10% per annum from 26th July, 2012 to 26th April, 2016. The petitioner says that the petitioner is entitled to compound interest under the provisions of Section 8 of the 1972 Act on the sum allowed by the Controlling Authority till actual payment thereof. The respondent no.4 prior to passing of the order dated 2nd March, 2021 by the Controlling Authority had paid only a sum of Rs. 2,25,900/-. The Controlling Authority by its order dated 2nd March, 2021 issued a certificate for recovery of Rs. 2,10,556/- on account of compound interest @ 15% per annum from 10th October, 2018 till the date of recovery.

It is further case of the petitioner that the Certificate Officer while executing the certificate passed an order dated 22nd June, 2023 wherein after deducting Rs. 2,10,556/- from Rs. 2,25,900/- came to a conclusion that Rs. 15,344/- was the arrears of interest. The petitioner says that this computation is wrong and is the subject matter of challenge in the writ petition. The petitioner also says that he is aggrieved by the order dated 22nd June, 2023 and the subsequent order by which the interest as calculated in the order dated 22nd June, 2023 was directed to be paid.

On behalf of the respondent nos. 1, 2 and 3 it is submitted that whatever has been calculated in terms of

the certificate has been duly realized and paid to the petitioner. No further sum is payable and nothing further also remains to be adjudicated.

Although, this Court in exercising jurisdiction of judicial review under Article 226 of the Constitution of India has wide authority under the writ of certiorari to call for the records to scrutinize the same and pass necessary order to do conscionable justice to the parties, if necessary but, in the instant case since it is a dispute involving the computation of the compound interest and can be more effectively adjudicated by the Certificate Officer, I dispose of the writ petition by granting liberty to the petitioner to file an application before the Certificate Officer ventilating his grievance as to the erroneous computation of the compound interest. This application has to be filed by 17th May, 2024. In the event such an application is filed by the writ petitioner, the Certificate Officer after hearing the parties on the issue of grant of compound interest and computation of such sum receivable by the petitioner shall execute the certificate for the sum that may be found payable. The entire exercise should be completed within a period of two months from the date of filing of the application pursuant to the leave granted by this order. The Certificate Officer while deciding the issue shall do the same independently and

without being influenced in any manner by any observations made herein.

I also make it clear that I have not gone into the merits of the matter i.e. correctness or incorrectness as to the amount of compound interest calculated by the Certificate Officer and payable as per petitioner's computation.

The writ petition is accordingly disposed of.

Since I have not called for affidavits, the allegations contained 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.)

