

21.05.2024.
Court No. 13
Item Nos 59 & 60
ap

W.P.A. No. 14251 of 2024
Uttam Naskar
Versus
The State of West Bengal & Ors.

Mr. R. Guha Thakurta,
Ms. S. Sengupta,
Ms. Dipa Roy.

...For the petitioner.

Mr. Susovan Sengupta,
Mr. Manas Kumar Sadhu.

...For the State.

Mr. Soumya Majumdar,
Ms. Amrita Pandey,
Mr. Ghanshyam Pandey,
Ms. Sneha Singha.

....For the respondent no.5.

WITH

W.P.A. No. 14512 of 2024
M/s. Delta Limited
Versus
The State of West Bengal & Ors.

Mr. Soumya Majumdar,
Ms. Amrita Pandey,
Mr. Ghanshyam Pandey,
Ms. Sneha Singha.

....For the petitioner.

Ms. Senjuti Sengupta,
Ms. Dipa Roy.

...For the respondent no.5.

Mr. Susovan Sengupta,
Mr. Jayanta Samanta,
Mr. Manas Kumar Sadhu.

...For the State.

Re: W.P.A. No. 14512 of 2024

1. The appointments of Mr. Susovan Sengupta and Mr. Jayanta Samanta and Mr. Manas Kumar Sadhu, learned Advocates appearing for the State, shall be regularized by the Office of the Legal Remembrancer.

2. The writ petitioner challenges an order dated 21st March, 2024 passed by the Appellate Authority under the Payment of Gratuity At, 1972.

3. It appears from the said order that the appeal was dismissed because the petitioner did not put in the pre-requisite deposit of principal amount of gratuity adjudicated by the Controlling Authority as required under proviso to Section 7 of the said Act of 1972.

4. Mr. Majumdar, learned Counsel appearing on behalf of the petitioner relies upon an order of the Co-ordinate Bench dated 11th October, 2023 passed in W.P.A. No. 19840 of 2023 wherein at paragraph 10, it has been recorded that taking note of the submissions of the learned Advocate representing the respondent no.5 that the admitted amount of gratuity has been secured by deposit with the Controlling Authority. The appeal was directed to be heard even without the certified copy of the order of the Controlling Authority.

5. This Court notes that a Co-ordinate Bench of this Court in the order dated 11th October, 2023 was completely misled by the respondent no.5/employer. The proviso to Section 7 of the said Act of 1972 has not been placed before the Court. The admitted amount of gratuity is relevant only for the purpose of proceedings before the Controlling Authority and not the Appellate Authority.

6. This Court is, therefore, of the view that that the defence advanced by the respondents is wholly baseless and devoid of merit.

7. For having misled the Co-ordinate Bench of this Court into believing and passing order in question the Company shall pay costs assessed at Rs.7,000/- (Rupees seven thousand only) to the High Court Legal Services Authority.

8. Having regard to the fact that the Controlling Authority has adjudicated the liability of the Company towards the petitioner for a total sum of Rs.3,92,932/-, the Certificate Officer shall expeditiously complete execution of the certificate dated 28th October, 2022 together with any further interest, preferably within a period of two months from the date of communication of a copy of this order.

9. With the aforesaid directions, the instant writ petition shall stand disposed of.

Re: W.P.A. No. 14251 of 2024

10. In view of the aforesaid order, W.P.A. No. 14251 of 2024 shall also stand disposed of.

11. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)