

07.08.2024
M.L.193
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 22176 of 2023

Apurba Kishore Das & Anr.
Vs.
The State of West Bengal & Ors.

Mr. Susanta Pal
.....for the
petitioners.

Mr. Sharanya Chatterjee
.....for Kalyani Spinning Mills Ltd.

The main grievance of the petitioners as made out in the writ petition has been ventilated by their employer, being the respondent no.3 (Kalyani Spinning Mills Ltd.) by paying the differential amount on account of gratuity. The petitioners' only claim which survives now is the interest for delayed payment of gratuity.

Admittedly, the petitioner no.1 retired from services on 30th November, 2022 and the petitioner no.2 retired from services on 31st March, 2023. The petitioners were paid Rs.12,00,000/- on their respective retirement, but the ceiling limit by that time had increased to Rs.20,00,000/-. The difference of Rs.8,00,000/- was paid subsequently to the petitioner no.2. The petitioner no.1 got his

differential proportionate amount. So, both the petitioners have received their principal sum.

The Payment of Gratuity Act, 1972 (hereinafter referred as the 1972 Act) provides for interest on delayed payment if there is a failure on the part of the employer to pay the same in time.

In the instant case, there was no negligence on the part of the employer, but because of the policy decision the delay occurred.

In the aforesaid facts and circumstances, the interest as specified under the 1972 Act cannot be granted, but at the same time the petitioners being deprived of the fruit of their money should be compensated in the light of the judgment reported in **2021 SCC Online SC 237 (State of Andhra Pradesh and Another vs. Dinavahi Lakshmi Kameswari)**.

The respondent no.3 is directed to pay interest on the differential amount to the petitioners from the date of their retirement till actual payment. The interest should be paid within a period of 4 months from date, failing which the interest rate will stand increased to 10% per annum as payable under the 1972 Act at the present.

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

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

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

(Arindam Mukherjee, J.)