

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

10 13.9.2024
PA Ct. no.2

WPA 1958 OF 2024

Nima Sherpa
Vs.

The State of West Bengal & Ors.

Mr. Milindo Paul
Mr. Nabankur Paul
Ms. Sutapa Sen Paul
Ms. Bedashruti Bose
Mr. Subham Das
Mr. Bodhisatya Ghosh.

....For the Petitioners

Mr. Momenur Rahman
Mr. Sourav Sarkar

....For the State

Affidavit-of-service, filed in Court today, is
taken on record.

Mr. Nabankur Paul, learned counsel appears
for the petitioner.

Mr. Momenur Rahman and Mr. Sourav
Sarkar learned counsel appears for the
respondents.

A certificate dated **28.10.2016** was issued by
the respondent no.5 with the following direction :

*“AND, now therefore, a certificate
under Section 8 of the Payment of
Gratuity Act, 1972, is hereby issued to
the Certificate Officer, Darjeeling for
realization of a sum of Rs.3,12,559.00
(only as gratuity plus interest as per
notice in Form ‘R’ together with
compound interest @ 15% per annum as
per Government Notification, S.O. 1072(E)
dated 01.12.1987 from the expiry of the*

date mentioned in Form 'R' till the date it is realized as per Section 8 of the Payment of Gratuity Act, 1972 from the employer i.e. O.P."

Learned counsel for the petitioner submits that, the first installment for a sum of **Rs.2,39,659/-** was paid to the petitioner on **27.04.2018** and the second installment for a sum of **Rs.72,129/-** was paid to the petitioner on **16.10.2020**.

The order of the controlling authority at **page 20** to the writ petition shows that, a total Gratuity was payable for a sum of **Rs.3,12,559/-** . The petitioner submits that, this amount has already been paid but without interest as per the said certificate at **page 22** to the writ petition.

In view of the above, the respondent nos. 6 and 7 are directed to pay the interest in terms of the said certificate at **page 22** to the writ petition till the date of actual payment made to the petitioner, as recorded above, on **reducing principal basis**.

The entire exercise, as directed herein, shall be positively carried out by the respondent nos. 6 and 7 within **four weeks** from the date of communication of this order.

In the event the interest, as directed herein, is not paid by the authority, the respondent no.4 shall initiate appropriate recovery proceeding on account of such interest payable to the petitioner immediately within a period of **one week** after expiry of the said **four weeks**, directed above, and shall proceed with the recovery proceeding strictly in accordance with law and shall conclude the same positively within a period of **four weeks** from the date of initiation of the recovery proceeding.

Since affidavit is not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions this writ petition, **WPA 1958 of 2024** stands disposed of, without any order as to costs.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)