

OD-8

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

WPO/397/2024

TAPAN KUMAR MOULICK
VS
THE STATE OF WEST BENGAL AND OTHERS

BEFORE:

The Hon'ble JUSTICE RAJASEKHAR MANTHA

Date : 14th May, 2024.

Appearance :
Mr. Shibnath Bhattacharyya, Adv.
Mr. Abhishek Bhattacharyya, Adv.
... for the petitioner.

Ms. Deblina Chattaraj, Adv.
Ms. Angana Dutta. Adv.

The Court : - 1. Affidavit of service filed in Court be kept on the record.
2. The petitioner superannuated from service on 31st January, 2018.
3. On 22nd January, 2020 the Transport department of the Government of West Bengal issued a Memorandum implementing the ROPA for the employees of the WBTC [erstwhile CTC(1978) Limited]. In terms of the second part of Clause 10 of the said Memorandum dated 22nd January, 2020, employees who retired or died between 1.1.2016 to 31.12.2019, would be allowed retiring and death gratuity on the revised pay as a

special case. The difference between the old and new rate were to be made available to the employees.

4. Admittedly, the petitioner comes within the time period mentioned in Clause 10 above. It appears to this Court that he is prima facie entitled to the benefit of the said Clause 10 of the Memo dated 22nd January, 2020.

5. In those circumstances, since the petitioner already received his terminal benefits, the difference in between the gratuity actually received by the petitioner and those payable to him in terms of the Memorandum dated 22nd January, 2020, being the difference of gratuity shall be made available to him subject to his fulfilling the other terms and conditions in the said Memorandum. The said differential gratuity shall carry interest at the rate of 7% per annum from 1st February, 2020, till date of actual payment.

6. It is submitted by the learned Counsel for the respondents that APOT 243 of 2022 (WBTC Limited vs. Prabhakar Ghosh & Ors.) along with OCOT No.1 of 2023 (Prabhakar Ghosh & Ors. Vs. State of West Bengal) on the same issue has been decided today in the morning by a Division Bench of this Court.

7. Since the copy is not available, this Court does not have the benefit of the said judgment. The aforesaid order is, however, passed based on the

principles enshrined under the Payment of Gratuity Act, 1971.

8. Urgent certified website copy of this order, if applied for, be made available to the parties subject to compliance with the requisite formalities.

(RAJASEKHAR MANTHA, J.)

SN/mg