

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 6288 of 2025

Mahadeo Jute and Industries Limited
Vs
State of West Bengal & Ors.

For the Petitioner : Mr. Abhra Mukherjee,
Mr. Sauradeep Dutta.

For the State : Mr. Debapriya Chatterjee,
(through virtual mode) Mr. Ushanath Banerjee.

Hearing concluded on : 14.07.2025

Judgment on : 23.07.2025

Shampa Dutt (Paul), J.:

1. The writ application has been preferred challenging the order dated 01.02.2024 passed by the Controlling Authority and the order dated 16.12.2024 passed by the Appellate Authority.
2. The petitioner/company's case is that the respondent no. 4 was employed in the jute mill as a Budli in the year 02.04.1980 and was made Special Budli in the year 2000. He superannuated on 16.04.2014. During the period of his such Budli employment he did not work continuously for 240 days, consecutively for 5 years till his

retirement on 16.04.2014. He was an insured person under the provision of the Employees' State Insurance Act, 1948. His contribution was deposited according to the wages earned in each month during the period of his employment.

3. It is the petitioner's case that after the respondent no. 4 superannuated on 16.04.2014, the petitioner/company issued several notices which were put up on its notice board in the case of Budli employees as per practice of the company intimating therein to the respondent no. 4 to come and collect his gratuity dues which was ready for disbursement. The petitioner also by its letter dated 08.08.2017 requested the respondent no. 4 to come and collect his gratuity dues, but the respondent no. 4 failed to report to the office of the company to receive his gratuity dues which is due and payable as per records of the company.
4. The respondent no. 4 without approaching the company filed an application for gratuity in Form 'N' dated 01.03.2017 before the learned Controlling Authority, Howrah, under the Payment of Gratuity Act, 1972 for determination of alleged residue amount of gratuity and recovery of the same.
5. The Controlling Authority while deciding gratuity case no. 18/17/DLC/HOW dated 01.02.2024 on the following findings:-

"The applicant deposed that he joined to the O.P. company on 01.03.1976 and superannuated on 16.06.2014. He served continuously for 38 years without any break in service. He also deposed that his last drawn wage was Rs.10,788.23 per month. To establish his claim during examination, he submitted the following documents, which are verified with originals and marked as

Exhibit-1-Copy of ESI card.

Exhibit-2-Copy of Notice of retirement issued by O.P. dated 01.06.2014.

Exhibit-3-Copy of starting monthly wages of unskilled workers as per agreement dated 02.12.95.

The Opposite Party cross examined the applicant on 09.01.2020. The O.P. Company recorded their Evidence-in-chief on affidavit on 02.03.2022 with one Exhibit, i.e. copy of Register of Leave with wages for the period from 1986 to 2014 of Md. Israil. The O.P. company submitted that the applicant concerned joined to the O.P. company on 01.03.1976 as 'Budli' and did not work continuously for 240 days in 5 years till his retirement on 16.06.2014. But the O.P. company failed to produce any attendance sheet of the applicant in support of their claim. Thus the O.P. company failed to produce any Exhibit to substantiate their Evidence-in-chief. The O.P. was being cross-examined by applicant on 04.04.2022, wherein O.P. admitted that they do not have any documentary evidence to proof that the applicant had not rendered continuous service from the year 1976 to 2014.

So, it is held that applicant cannot be a victim of circumstances just because of sheer negligence on the part of the O.P. company as such in no circumstances the O.P. company can escape its statutory liability towards payment of gratuity to the concerned applicant.

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On perusal of oral and written affirmation made by parties and documentary evidences associated with the parties, the undersigned holds the decision that the applicant, Md. Israil joined to the O.P. company on 01.03.1976 and rendered continuous service under the O.P. company till 16.06.2014, which was the date of his superannuation and his last drawn wage was Rs.10,788.00 per month. Thus the applicant is entitled to gratuity for rendering 38 years of continuous service and his entitled amount of gratuity as per Sec 4(2) of the said Act would be as follows Rs. $10788/26 \times 15 \times 38 = \text{Rs.} 2,36,506.00$ (Rupees Two Lakh Thirty Six Thousand Five Hundred Six) only.

As the aforesaid amount was not paid within stipulated time after superannuation on 16.06.2014, the applicant is further entitled to get the amount of simple interest @ 10% W.E.F. 17.06.2014 till the date of Order i.e. 01.02.2024 as per section 7(3) of the said Act.

ORDER

Hence, the applicant, Md. Israil is entitled to get gratuity of 38 years which is amounting to Rs.2,36,506 plus 10% simple interest there on as admissible under Section 7(4A) of the said Act. Therefore, the interest @ 10% P.A. on Rs.2,36,506/- for the period from 17.06.2014 till the date of order i.e. 01.02.2024 amounts to Rs.2,26,651 (Rupees Two Lakh Twenty Six Thousand Six Hundred Fifty One) only.

The total amount of gratuity along with interest stands at (Rs.2,36,506 being gratuity + Rs.2,26,651 being interest) Rs.4,63,157 (Rupees Four Lakh Sixty Three Thousand One Hundred Fifty Seven) Only. The O.P. Employer, i.e. the Director of M/s-Mahadeo Jute & Industries Ltd., Punam Chandra Bajaria Road, 352, G.T. Road, Bally, Howrah-711201 is directed to pay Rs.4,63,157 (Rupees Four Lakh Sixty Three Thousand One Hundred Fifty Seven) only to Md. Israil within 30 days from the receipt of this order. There is no order as to costs.

This is my order, given under my hand and seal, this 01st day of February, 2024.

Sd/-
Joint Labour Commissioner (P)
&
Controlling Authority
Under the Payment of Gratuity Act, 1972
Howrah"

6. The company appealed against the said order and the appellate authority vide order dated 16.12.2024 held as follows:-

".....After a long process the hearing was concluded on 26.11.2024.

From the records as well as arguments submitted by both the parties, the following facts are found:-

- 1. Md. Israil joined the Appellant Company on 01.03.1976 as a Budli worker.*
- 2. He got superannuated from service on 16.06.2014 as a Special Budli worker.*
- 3. His last drawn wage was Rs.10,788/- per month.*
- 4. He rendered continuous service of 38 years 3 months 15 days i.e. 38 years to the appellate company and there was no break in service.*

5. The Controlling Authority by his findings directed the Appellant Company to pay gratuity amounting to Rs.4,63,157/-.

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During hearing of the appeal petition, both the parties i.e the Appellant Co. and the Respondent are given ample opportunity of being heard. All the documents and evidences are examined and verified carefully. The Appellant Co. could not produce any records or documents in support of their statement. The Appellant Co. had also failed to submit documentary evidence before the Controlling Authority. The Controlling Authority gave direction for payment of gratuity after giving ample opportunity of being heard to both parties. During hearing of the appeal before the Appellate Authority, no new matter came from the evidence adduced and documents produced by the Appellant Co.

On the basis of the above, the Appellate Authority opines that the entire process of hearing of the Controlling Authority is justified and at par with the Payment of Gratuity Act, 1972.

Hence, the appeal petition made by the Appellant Co. is rejected and the Order of the Learned Controlling Authority is confirmed.

It is also directed that the Ld. Controlling Authority will proceed further as per the Act for payment of gratuity amounting to Rs.4,63,157/- (Rupees Four Lakh Sixty-Three Thousand One Hundred Fifty-Seven) only to the Respondent Md. Israil.

Sd/-
Appellate Authority
Under the Payment of Gratuity Act, 1972
&
Deputy Labour Commissioner, Howrah”

7. Learned counsel for the petitioner has placed his principal argument on the ground that the employee was informed by a letter as follows:-

“We are informing you that your gratuity is ready for payment, so, you are requested to come to our office on any working day for collecting the same, immediately.”

8. A copy of the notice issued by the company on 08.08.2017 placed shows that the petitioner was asked to come and accept his gratuity.
9. It is stated that, as the petitioner failed to do so, he is not entitled to any interest.
10. **The said facts are duly considered by this Court. Though the petitioner/company has shown their eagerness to pay gratuity, their conduct shows otherwise, in view of the fact that the company has not only contested the case before the Controlling Authority without producing any documents in support of their case but have also appealed against the order passed by the Controlling Authority and have now filed the present writ.**
11. As such, the contention of the petitioner that they always intended to pay gratuity to the worker by relying upon a letter, shows that if it was true, the company would not have contested the case and would have made necessary arrangement to pay gratuity to the employee at the earliest and if paid at that stage, no interest would have accrued.
12. As such, the petitioner's case that the employee is not entitled to interest as directed by the Controlling Authority has no merit and the orders of the Controlling Authority and the Appellate Authority being in accordance with law requires no interference.

13. In case the gratuity had been paid at the right time, there would have been no order to pay any interest.

14. The Supreme Court in ***Steel Authority of India Limited vs. Workmen of Steel Authority of India Limited & Anr., Civil Appeal Nos. 902-903 of 2023 (arising out of SLP (C) Nos. 26634-26635 of 2019), decided on February 07, 2023,*** held:-

“13.it is not necessary to regularize the services of the workmen who have died, retired or still in employment and *even in the absence of such a status, they shall be entitled to the following service benefits:*

- (i) Pay-scale at par with the employees who are on the roll of the appellant – Authority;
- (ii) The benefit of provident fund;
- (iii) **The benefit under the Gratuity Act;**
- (iv) The other service benefits including the medical allowance which the appellant – Authority has granted to its employees under the Service Regulations or through administrative decisions from time to time. Such benefits will be admissible from the cut-off date determined by the Tribunal.”

15. In ***Steel Authority of India Limited (supra)***, the Supreme Court further held:-

“12. The issue whether the workmen were employed by IISCO or they were contractual employees is essentially a question of fact which has been examined in depth by the Tribunal, learned Single Judge as well as the Division Bench of the High Court, holding concurrently that the workmen were actually the employees of the appellant – Authority. Such a finding of fact does not warrant for any interference by this Court.

14. Let the arrears of these benefits be released to the respondent – workmen within four months from the date of receipt of bank account details of the individual

employees/their legal heirs. In case the service benefits are released within four months, no interest shall be paid to the respondent – workmen. In case the payments are delayed, the workmen will be entitled for interest at the rate of 7% p.a.”

16. The employee here has been in service since 1980 and retired in 2014, after having put in **34 years of service** and as such the argument of the petitioner that the employee did not put in 240 days of works, continuously for a period of five years is without any substance in the absence of any evidence in their favour.
17. **A person having put in 34 long years of services deserve the benefits under the beneficial legislations.**
18. Thus the order of Controlling Authority dated 01.02.2024 and Appellate Authority dated 16.12.2024 **being in accordance with law requires no interference.**
19. **WPA 6288 of 2025 is dismissed.**
20. All connected applications, if any, stand disposed of.
21. Interim order, if any, stands vacated.
22. Urgent Photostat certified copy of this Judgment, if applied for, be supplied to the parties expeditiously after due compliance.

(Shampa Dutt (Paul), J.)