

04.04.2025
Item No.19
Ct. No. 30
Aloke

WPA 6799 of 2025

**Bachcha Singh @ Bacha Singh @ Bachha Singh
Vs
The State of West Bengal & Ors.**

Mr. Rananeesh Guha Thakurta
Ms. S. Sengupta
... for the petitioner
Mr. Abdul Hamid
Mr. Pradipta Siddharta
... for the State
Mr. S.K. Singh
Mr. Ravi Kr. Dubey
... for the respondent no. 4

The present writ application has been preferred praying for execution of certificate dated November 18, 2022 in terms of communication dated July 29, 2024 as issued in Certificate Case No. 83/Misc/22.

The Controlling Authority under Payment of Gratuity Act, 1972 directed payment of gratuity in favour of the petitioner herein reads as follows :

*“.....And whereas, no reply to the show cause notice has been received as yet.
And, now therefore, in exercise of the power conferred by section 8 of the Payment of Gratuity Act, 1972, a certificate is hereby issued for recovery of a sum **Rs.3,64,584/-** (Rupees Three lac sixty four thousand five hundred eighty four) only as gratuity plus simple interest together with compound interest thereon @ 15% p.a. from **27.7.22** i.e. the date of expiry of the time mentioned in the*

direction till the date of recovery in terms of section 8 of the Payment of Gratuity Act, 1972 (the rate of interest being the accordance to the Central Govt. Notification No. 1032 (E), Dated 01.12.87 issued under section 8 of the said Act of 1972) from M/s. The Calcutta Jute Manufacturing Co. Ltd....”

The Certificate Officer vide an order dated 23.07.2024 has directed payment of gratuity amount along with interest as directed by the Controlling Authority in its order dated 18.11.2022.

As the private respondent company is not making the said payment, the petitioner has approached the Court for execution of the order.

Learned counsel for the private respondent company submits that the compound interest has been calculated on the total amount of gratuity including the simple interest.

It is contended that compound interest is payable only on the amount of gratuity which shall not include the simple interest which accrued on the amount of the gratuity. In support of their contention they have relied upon the judgment of a Coordinate Bench passed in WPA 11387 of 2024.

Opposing the said submission of the respondents the petitioner herein has stated that the present writ application has been preferred praying for execution of the Certificate in which the order of the Controlling Authority is being sought to be

recovered. It is further stated that as the private respondent company neither has challenged the certificate nor the order of the Certificate Officer, the respondent company cannot raise the said point at this stage in a writ application filed by the workman.

Learned counsel for the petitioner has relied upon an order of a Coordinate Bench dated 17.01.2025 in WPA 7928 of 2024 wherein the Court held as follows :

“It is settled beyond doubt that a decision in a matter is on the facts and circumstances of the particular case. It is ordinarily an order in personam and not an order in rem unless it is specified therein. The mode of computation indicated by the Co-ordinate Bench while disposing of the said three writ petitions, therefore, has to be followed in respect of the matters disposed of by the said Co-Ordinate Bench. This matter had been decided much prior to the judgment passed by the Co-Ordinate Bench while disposing of the aforesaid three writ petitions being WPA 11387 of 2024, WPA 11392 of 2024 and WPA 11423 of 2024. The petitioner was not a party in any of the said three writ petitions and as such the orders passed therein will also not bind the petitioner.”

The Court directed the Certificate Officer to ensure the payment of the total amount within a certain period.

A status report submitted by the Certificate Officer, South 24 Parganas has been placed before the Court.

Admittedly, the order of the Controlling Authority is dated 18.11.2022 and the order of the Certificate Officer is 29.07.2024. Both these orders are prior to the order passed by the Coordinate Bench in WPA 11387 of 2024 which is dated 24.12.2024.

Considering the said facts, the said judgment of the Coordinate Bench is not applicable to the present case as the orders are prior to the order passed by the Coordinate Bench. More so because the orders passed by the Controlling Authority and the Certificate Officer have not been challenged by the private respondent company. It is in a writ application praying for execution of the certificate that the respondents have raised the issue.

Considering all these facts, the Certificate Officer is directed to execute the certificate dated 18.11.2022 and ensure the payment of the amount as calculated by the Certificate officer on 29.07.2024 in accordance with law within a period of 30 days from the date of this order.

WPA 6799 of 2025 is accordingly disposed of.

There will be no order as to costs.

All connected applications, if any, stand disposed of.

Interim order, if any, stands vacated.

Parties shall act on the server copy of this order duly downloaded from the official website of this Court.

Petitioner is granted liberty to communicate this server copy of this order.

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

(Shampa Dutt (Paul), J.)