IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 7266 of 2025

Gobinda Lal Basu & Ors.
Vs
Union of India & Ors.

For the Petitioners	:	Mr. Susanta Pal, Mr. Pradip Kumar Ghosh.
For the U.O.I.	:	Mr. D.N. Ray, Mr. Rajesh Kumar Shah.
For the Respondent Nos. 2 & 3	:	Mr. Victor Chatterjee, Mr. Amit Meharia, Ms. Paramita Banerjee, Mr. Rohan Raj, Mr. Sayan Dey.
Hearing concluded on	:	11.06.2025
Judgment on	:	16.06.2025

Shampa Dutt (Paul), J.:

1. The writ application has been preferred praying for direction upon the respondent authorities to disburse the revised amount of gratuity in the light of the notification dated 10th July, 2018 along with revised leave pay including interest for delayed payment.

2. The petitioners' case is that they are the ex-employees of the company.

3. The Petitioner no. 1 retired from service after rendering 38 years continuous service on **31.07.2017**, the Petitioner no. 2 retired from service after rendering 42 years continuous service on **31.01.2018**, the Petitioner no. 3 years retired from service after rendering 33 years continuous service on **28.02.2018** and the Petitioner no. 4 retired from service after rendering 35 years continuous service on **31st March, 2017.**

4. The petitioners further state that after retirement of the Petitioners, an office Memorandum was issued by the respondent No. 1 on 10th July, 2018 vide W-02/0036/2018-DPE(WC)-GL-XIX/18 stating that the payment of Gratuity under DPE (Department Public Enterprise) guidelines dated 3rd August, 2017 is subject to affordability of the CPSE's (Central Public Sector Enterprise) usurped effective from the period from 1st January, 2017 till 28th March, 2018 in respect of Executives and Non-unionized supervisors of CPSE's on IDA Ray Pattern, where pay has been revised with effect from 1st January, 2017 which in respondent No. 2 company has been effectively implemented with effect from February, 2019 (partially) and March, 2019 in full, being pay-scale with a validity of coming 10 years for all category of employees.

5. It is further stated that though the Petitioners are covered under the said Notification and the respondent company being a profit making public sector enterprises, therefore, the Petitioners are eligible to get the revised Gratuity (from Rs.10 Lacs to 20 Lacs) and revised leave pay and proportionate revised salary for the last working month, have only received the revised salary and no other dues as per the said notification.

6. The Petitioners had approached the Assistant Labour Commissioner (Central), Kolkata but by an order vide No. 48/59/2021-E2 dated 21st June, 2022 the said Authority had rejected the claim of the Petitioners.

7. It is further stated that similarly situated employees approached this Hon'ble High Court challenging the decision of non-payment of revised gratuity and revised leave salary by the respondent company, in W.P.A. No. 15056 of 2019 wherein by an order dated 3rd April, 2024 the Court was pleased to allow the claim of similarly situated employees without awarding any interest.

8. An appeal was preferred for non-granting of interest, in connection with revised gratuity and revised and leave salary. The Hon'ble Division Bench by an order and judgment dated 29th July, 2024 in F.M.A. No. 664 of 2024 was pleased to grant interest @10% till the receipt of payment as directed by the Learned Single Judge.

9. The respondent company filed a Review Application and an independent appeal. By way of a common judgment and order dated 14th February, 2025, the Hon'ble Division Bench was pleased to reject the appeal filed by the respondent company. By the Review Application the judgment dated 29th July, 2024 has been modified as follows :-

> *"25. Office memorandum dated July 10, 2018 increase the granting with effect of such date.*
>
> ***26. Therefore, the date of commencement of interest in the judgment and order dated July 29, 2024 is***

modified to direct payment of interest at the rate of 10% from July 10, 2018 till payment.

Save and except above the remaining petition of the order dated 29th July, 2024 remains in fact."

10. It is also stated that the Department of Heavy Industry by a circular dated 10th July, 2018 has made the executives entitled for Revised Gratuity from Rs.10 to 20 Lakhs and it has been applied certified vide office Memorandum dated 3rd August, 2017 and the same was confirmed by the circular dated 30th March, 2019 by the General Manager (HR & LA) of the respondent No. 2.

11. On hearing the parties and considering the materials on record it appears that:-

i. The Ministry of Heavy Industries and Public Enterprises Department of Public Enterprises vide office memo no. W-02/0028/2017-DPE(WC)-GL-XIII/17 dated 3rd August, 2017 granted Pay Revision of Board level and below Board level Executives and Non-Unionised Supervisors of Central Public Sector Enterprises (CPSEs) w.e.f. 01.01.2017, which included enhancement of ceiling of gratuity from Rs. 10 lakhs to 20 lakhs at clause 12.1.

ii. Vide office memo no. W-02/0036/2018-DPE(WC)-GL-XIX/18 dated 10th July, 2018, the Ministry issued a clarification regarding the "affordability of the CPSEs".

12. The Petitioners herein have all retired between the period from 01.01.2017 till 28.03.2018 and thus come within the purview of the notification dated 3rd August, 2017 granting benefits.

13. It appears that even though such notifications have been issued in the year 2017 and 2018, the respondent/company till date has not issued any circular regarding its “affordability” and having not done so, it can be safely presumed that the company has the affordability considering that the benefit granted is under a beneficial legislation and revised pay has been given as per the said notification.

14. Accordingly the writ petition is disposed of with the direction that the respondent no. 2 shall disburse the enhanced amount of gratuity in terms of the office memorandum dated 3rd August, 2017 and 10th July, 2018 along with other entitlements of the petitioners including, leave salary along with interest @ 10% from July 2018 till payment within six months from the date of communication of this order, failing which thereafter the interest shall be payable @ 18% till payment.

15. **WPA 7266 of 2025 is thus allowed.**

16. There will be no order as to costs.

17. All connected applications, if any, stand disposed of.

18. Interim order, if any, stands vacated.

19. Urgent Photostat certified copy of this Judgment, if applied for, be supplied to the parties expeditiously after due compliance.

(Shampa Dutt (Paul), J.)

Later:-

After passing of the judgment the respondents pray for stay of the operation of the judgment and order.

Considering the grounds as made out for stay, prayer is rejected.

(Shampa Dutt (Paul), J.)