IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

43 30.4.2025
Sc Ct. no.2

WPA 8217 OF 2025

Sanjib Krishna Paul
Vs.
Food Corporation of India & Anr.

Mr. Sakya Maity
....For the Petitioner
Ms. Sanjukta Basu Mullick
....For the respondents

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

Mr. Sakya Maity, learned advocate appears for the petitioner.

Ms. Sanjukta Basu Mullick, learned advocate appears for the respondents, FCI.

The admitted facts are – the petitioner has retired on ***January 31, 2019***. The petitioner did not receive its Gratuity immediately upon retirement. The petitioner moved before the controlling authority. The controlling authority directed the FCI to pay a sum of ***Rs.4,63,454/- with simple interest @10% per annum*** with effect from ***February 1, 2019 till the payment of Gratuity***.

The FCI has challenged the said order of the controlling authority by way of a writ petition and the challenge ultimately went before the Hon'ble Division Bench in ***MAT 2454 of 2023***. The Hon'ble Division

Bench by its order dated ***September 24, 2024*** at ***page 15*** to the writ petition had dismissed the appeal by holding that the petitioner workman shall be entitled to Gratuity as per the applicable rules together with interest @ 10% per annum from the date of superannuation till the date of actual payment.

Mr. Sakya Maity, learned advocate appearing for the petitioner now claims interest since the principal amount has already been paid on ***December 4, 2024, Annexure-P5 at page 17*** to the writ petition.

Ms. Sanjukta Basu Mullick, learned advocate appearing for the respondents submits that her client has filed a modification application in the dismissed appeal and the application is still pending being ***CAN 3 of 2025*** in ***MAT 2454 of 2023***. She prays for an adjournment until the modification application is heard.

Upon considering the rival contentions of the parties and upon perusal of the materials on records, it appears to this Court that, the admitted fact is the appeal has already been dismissed with a specific finding to pay interest @10% per annum, as referred to above. Mere pendency of modification application shall not give any leverage to the applicant FCI not to pay the interest, which is otherwise statutorily directed to be paid to a superannuated workman.

Gratuity is the property of the superannuated workman. Withholding Gratuity, without due process of law, amounts to an illegal withholding for which the employer is liable to pay interest and the interest rate is fixed at 10% per annum under the statute. In the facts of this case the finding of the Hon'ble Division Bench is also the same.

In view of the above, the respondent no.2 and/or the appropriate authority of the respondent no.1 is directed to pay interest ***@10% per annum*** since ***February 1, 2019 till December 4, 2024*** on the principal sum positively within a period of ***two weeks*** from the date of communication of this order, ***failing which***, on the total accumulation of amount along with interest @10% per annum till December 4, 2024, the FCI shall pay interest ***@12% per annum*** until the actual payment is made to the petitioner ***beyond*** the said period of ***two weeks***.

These directions are mandatory and peremptory.

Since affidavits are 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 8217 of 2025*** stands ***allowed***, without any order as to costs.

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

(Aniruddha Roy, J.)