13.06.2025
Item No.05
BR

WPA 10075 of 2025
M/s. Kelvin Jute Limited
-vs-
The State of West Bengal and others

Mr. Biksash Shaw,
Mr. Sk. Saad Islam
... for the Petitioner

Mr. Gourav Das,
Mr. Swapan Kumar Pal
... for the State

1. Affidavit of service filed by the petitioner be kept with the record.

2. The writ application has been preferred praying for setting aside of the order dated 10.12.2024 passed in Appeal Case No. G/A-1/2024 (M/s. Kelvin Jute Mills vs. The Controlling Authority and anr.) and also the order dated 28.06.2023 as passed in Case No.G-01/21 by the Controlling Authority/Respondent No.2.

3. It is the case of the petitioner company that the workman has received his gratuity amount of Rs. 99,045/- as full and final settlement on 25.9.2020. It is submitted that as he has received the said settlement as full and final settlement, subsequent direction by the

Controlling Authority and the Appellate Authority directing payment of interest is not in accordance with law and the petitioner is not liable to pay the same. More so, because the amount of interest which is assessed at Rs. 1,09,858/- has exceeded the amount of gratuity.

4. Learned counsel for the petitioner has relied upon Second Proviso to Section 8 of the Payment of Gratuity Act which is as follows:-

> ***"8. Recovery of gratuity.***-*If the amount of gratuity payable under this Act is not paid by the employer, within the prescribed time, to the person entitled thereto, the controlling authority shall, on an application made to it in this behalf by the aggrieved person, issue a certificate for that amount to the Collector, who shall recover the same, together with compound interest thereon [at such rate as the Central Government may, by notification, specify], from the date of expiry of the prescribed time, as arrears of land revenue and pay the same to the person entitled thereto.*
>
> *44. Subs. by Act 22 of 1987, S. 8 (w.e.f. 1.10.1987). The Govt. has specified 15% per annum as the rate of compound interest vide S.O. 1032 (E), dated 1.12.1987.*
>
> *[Provided that the controlling authority shall, before issuing a certificate under this section, give the employer a reasonable opportunity of*

showing cause against the issue of such certificate:

Provided further that the amount of interest payable under this section shall, in no case exceed the amount of gratuity payable under this Act.]"

5. Admittedly, in the present case there has been delay of payment of interest as adjudicated by the Controlling Authority but it appears that in the present case the order granting of gratuity along with interest to be paid to the worker has been passed by the Controlling Authority under Section 7(3A) & 4(c) of the Payment of Gratuity Act.

6. Section 7(3A) & 4(c) of the Payment of Gratuity Act, lays down:-

*"**Section 7(3A)** If the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long-term deposits, as that Government may, by notification specify:*

Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the controlling authority for the delayed payment on this ground.

> ***Section 4(c)*** *on his death or disablement due to accident or disease:*
> *Provided that the completion of continuous service of five years shall not be necessary where the termination of the employment of any employee is due to death or disablement:*
> *Provided further that in the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs, and where any such nominees or heirs is a minor, the share of such minor, shall be deposited with the controlling authority who shall invest the same for the benefit of such minor in such bank or other financial institution, as may be prescribed, until such minor attains majority.]"*

7. It is thus clear that the second proviso to Section 8 relied upon by the petitioner is applicable in respect of the amount of interest payable under Section 8 of the Act wherein the Collector issues a certificate to recover the same along with compound interest.

8. **Interest under Section 8 of the Act and under Section 7 are independent provisions.** The interest granted by the controlling authority is not confined/restricted to any amount but the actual amount of interest accrued on gratuity.

9. The proviso to Section 8 of the Act is applicable in case of a recovery proceeding as public demand where in compound interest is calculated on the certificate amount issued by the controlling authority, which includes the principle amount of gratuity and simple interest on delayed payment.

10. **Accordingly, the writ petition stands dismissed.**

11. The interest amount as directed by the controlling authority be paid within six weeks from the date of this order failing which the controlling authority without delay shall issue a certificate for recovery of the same.

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

13. Interim order, if any, stands vacated.

14. Let a copy of this order be sent to the Controlling Authority & Labour Commissioner for necessary information.

15. Urgent Photostat certified copy of this order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Dutt (Paul), J.)