

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 11565 of 2025

Vijai Shree Pvt. Limited (Fort William Jute Mill Division)
Vs
Sogra Bibi & Ors.

For the Petitioner : Mr. Soumya Majumder, Sr. Adv.
Mr. S.K. Singh,
Mr. R.K. Dubey.

For the Respondents : Mr. Bikash Shaw,
Mr. Sk. Saad Nafisul Islam.

Hearing concluded on : 09.06.2025

Judgment on : 09.06.2025

Shampa Dutt (Paul), J.:

1. Affidavit-of-service filed be kept with the record. On being served the respondents are being represented.
2. The present writ application has been preferred against an order dated 28.02.2024 and order dated 15.05.2025 passed by the Controlling Authority and the Appellate Authority respectively.
3. The contention of the writ petitioner is two folds : First, that the order under challenge which has been passed by the Appellate Authority in the present case is not in accordance with law as the said authority has

decided an appeal in the form of review. The Appellate Authority has neither gone into the facts nor the evidences recorded before the Controlling Authority and the other materials on record and without any due consideration as required while deciding an appeal in accordance with law has dismissed the appeal and affirmed the order of the Controlling Authority in a mechanical manner.

4. The second contention of the petitioner herein is that the petitioner had made an application before the Controlling Authority praying for leave to call for relevant records from the ESI Authorities to prove their case that the petitioner is not entitled to gratuity on the ground that the petitioner did not put in 240 days of work in a year for five years continuously, on the contention that the ESI Authorities maintains records which would have proved before the authority concerned that the petitioner did not put in the requisite number of days to entitle him to the benefit of gratuity. The said prayer was rejected by the Controlling Authority vide its order dated 18.05.2022 on the findings as follows:-

“On perusal of oral and written averments made by both parties, it is held –

1. *That the promulgation of Employees’ State Insurance Act, 1948 envisaged an integrated need-based social insurance scheme that is aimed at delivering medical care and other benefits to the employees or workers engaged in Jute Mill (hereinafter, M/S Bally Jute Company Ltd.) or other establishments.*
2. *That in terms new Rule of ESIC, the employee’s contribution is 0.75% of the wages (w.e.f. 01/07/19) and*

that of employer is 3.25% of the wages paid/payable in respect of the employees in every wage period. Further to note that, in terms of Section 40 of ESI Act, 1948; the Principal Employer shall pay in respect of every employee, whether directly employed by him or by or through an immediate employer, both the Employer's & Employee's contribution and the Employer has to transmit the same to the ESIC in respect of a particular IP number, which is an unique identification number and it differs from one employee to another.

- 3. In the light of the above, the employer is supposed to preserve/procure all necessary informations/database upon which the calculation of percentages (%) is to be done both for employer's & Employee's share and subsequently the Employer has to transmit the same to the ESI Authority.**

Therefore, ESI is not the appropriate authority to be summoned in exercise of power conferred in Rule 14 of West Bengal Payment of Gratuity Rules, 1973 for producing the said document.

The same should be lying in the custody of the O.P. Employer and they are directed to produce the same.

Hence, the petition dated 11/04/2022 is considered and the same is rejected.

**Sd/-
Controlling Authority
Under the Payment of Gratuity Act, 1972
Howrah"**

- 5.** It is submitted by the learned senior counsel for the petitioner that though they did not challenge the said order when the prayer was rejected by the Controlling Authority, the petitioner now states that he

is entitled to challenge the same at this stage considering that the said documents which are lying with the ESI Authorities would substantiate the claim of the petitioner/company.

- 6.** It appears that the Controlling Authority taking into consideration the materials on record and on the finding that the petitioner/company who was the O.P. before the Controlling Authority did not produce the original attendance register or the muster role to substantiate their claim, and also did not issue Form-L or Form-M to the applicant after the death of the employee for which they were duty bound, rejected the contention of the petitioner/company herein.
- 7.** It appears from the materials on record that the employee herein was in employment with the petitioner company on and from 01.04.1994 and died while in service on 28.01.2018, that is after rendering 24 years of continuous service.
- 8.** It was also proved before the Controlling Authority that the last drawn wage of the deceased employee was Rs.12261.15. The claimant being the mother of the deceased employee produced the relevant documents before the Controlling Authority being Exhibits 1, 2 and 3 which includes copy of the identity card issued by the ESIC, copy of the death certificate of deceased employee and copy of the pay slip of the deceased employee.
- 9.** On considering the materials and evidences on record, the Controlling Authority decided the case in favour of the claimant.
- 10.** The relevant part of the order of the Appellate Authority which is being challenged by the petitioner herein is as follows :-

“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 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, no new matter came from the evidence adduced and documents produced by the Appellant. All the statements and claims of the Appellant in the appeal petition are not maintainable as they could not produce evidences in this regard.

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.”

11. An Appellate Court exists precisely to cure prejudicial errors in the trial court. An Appellate Court is an error-correcting court. The Appellate Authority reviews the original decision, the appeal documents, and any additional evidence or arguments submitted. An Appellate Authority has for the purposes of discharging its functions, the power to:-

- a) Receive evidence;
- b) Issue commissions for examination of witnesses;
- c) Requisition any public record; and
- d) Any other matter, which may be prescribed,

And any proceeding before the Appellate Authority shall be deemed to be a judicial/and or quasi judicial proceeding.

12. In State Project Director U.P. Education for All Project Board & Ors. Vs. Saroj Maurya & Ors., in Civil Appeal No. 3465 of 2023, decided on 2^{1st} August, 2024, the Supreme Court held:-

*“3. We are of the opinion that in the absence of any reasoning in the impugned judgment, the same cannot be sustained. In this regard, we are benefitted by the following observations made by this Court in **CCT v. Shukla & Bros., (2010) 4 SCC 785**. The relevant paragraphs of the judgment are extracted hereinbelow: -*

*“23. We are not venturing to comment upon the correctness or otherwise of the contentions of law raised before the High Court in the present petition, but it was certainly expected of the High Court to record some kind of reasons for rejecting the revision petition filed by the Department at the very threshold. A litigant has a legitimate expectation of **knowing reasons** for rejection of his claim/prayer. It is then alone, that a party would be in a position to challenge the order on appropriate grounds. Besides, this would be for the benefit of the higher or the appellate court. **As arguments bring things hidden and obscure to the light of reasons, reasoned judgment where the law and factual matrix of the case is discussed, provides lucidity and foundation for conclusions or exercise of judicial discretion by the courts.***

*24. **Reason is the very life of law.** When the reason of a law once ceases, the law itself generally ceases (Wharton's Law Lexicon). Such is the significance of reasoning in any rule of law. Giving reasons furthers the cause of justice as well as avoids uncertainty. As a matter of fact it helps in the observance of law of precedent. Absence of reasons on the contrary essentially introduces an element of uncertainty, dissatisfaction and give entirely different dimensions to the questions of law raised before the higher/appellate courts. In our view, the court should provide its own grounds and reasons for rejecting claim/prayer of a party whether at the very threshold i.e. at admission stage or after regular hearing, howsoever concise they may be.*

25. We would reiterate the principle that when reasons are announced and can be weighed, the public can have assurance that process of correction is in place and working. It is the requirement of law that correction process of judgments should not only appear to be implemented but also seem to have been properly implemented. Reasons for an order would ensure and enhance public confidence and would provide due satisfaction to the consumer of justice under our justice dispensation system. It may not be very correct in law to say, that there is a qualified duty imposed upon the courts to record reasons.

26. Our procedural law and the established practice, in fact, imposes unqualified obligation upon the courts to record reasons. There is hardly any statutory provision under the Income Tax Act or under the Constitution itself requiring recording of reasons in the judgments but it is no more *res integra* and stands unequivocally settled by different judgments of this Court holding that the courts and tribunals are required to pass reasoned judgments/orders. In fact, Order 14 Rule 2 read with Order 20 Rule 1 of the Code of Civil Procedure requires that, the court should record findings on each issue and such findings which obviously should be reasoned would form part of the judgment, which in turn would be the basis for writing a decree of the court.

27. By practice adopted in all courts and by virtue of judge-made law, the concept of reasoned judgment has become an indispensable part of basic rule of law and, in fact, is a mandatory requirement of the procedural law. Clarity of thoughts leads to clarity of vision and proper reasoning is the foundation of a just and fair decision. In *Alexander Machinery (Dudley) Ltd.* [1974 ICR 120 (NIRC)] there are apt observations in this regard to say “failure to give reasons amounts to denial of justice”. Reasons are the real live links to the administration of justice. With respect we will contribute to this view. There is a rationale, logic and purpose behind a reasoned judgment. A reasoned judgment is primarily written to clarify own thoughts; communicate the reasons for the decision to the concerned and to provide and ensure that such reasons can be appropriately considered by the appellate/higher court. Absence of reasons thus would lead to frustrate the very object stated hereinabove.”

13. Thus the order of the Appellate Authority dated 15.05.2025 suffers from inherent defects and permitting such an order to remain shall be an abuse of process of law.
14. Accordingly, in the interest of justice, the order under challenge is hereby set aside.
15. The Appellate Authority is directed to hear the appeal afresh, keeping in mind the observations made above and on considering the materials on record including the evidence before the controlling authority and hearing the parties shall dispose of the appeal afresh by passing a reasoned order, within 60 days from the date of this order.
16. **WPA 11565 of 2025 stands disposed of.**
17. There will be no order as to costs.
18. All connected applications, if any, stand disposed of.
19. Interim order, if any, stands vacated.
20. Urgent Photostat certified copy of this Judgment, if applied for, be supplied to the parties expeditiously after due compliance.

(Shampa Dutt (Paul), J.)