

Court No. 2

29.4.2025

(Item No. 30)

(Sc)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 15032 of 2024

Sujit Kumar Sen

VS

Food Corporation of India & Ors.

Mr. Soumya Majumder

Ms. Sanjukta Dutta

Mr. Kisor Ray.

.... For the petitioner

Mr. Devajyoti Barman

Ms. Sanjukta Basu Mallick.

.... For FCI

Mr. Soumya Majumder, learned senior advocate being ably assisted by Ms. Sanjukta Dutta, learned advocate and Mr. Kisor Ray, learned advocate appears for the petitioner.

Mr. Devajyoti Barman, learned advocate with Ms. Sanjukta Basu Mallick, learned advocate appears for the respondents.

Pursuant to the direction made by a coordinate Bench dated December 2, 2024 learned advocate for the FCI has filed its report in the form of affidavit today in Court, the same is taken on record. Copy has been served upon the petitioner.

The petitioner a retired employee of the Food Corporation of India (FCI) claims the leave encashment allowance. The employer respondent has raised an issue that whether such an allowance shall

be paid as Central Dearness Allowance (CDA) or Industrial Dearness Allowance (IDA).

The issue is not settled for the time being. This Court is of the view that, the claim for leave encashment allowance as claimed by the petitioner is not denied, only under which scheme it shall fall whether CDA or IDA is the pending issue.

In view of the above, respondents has made calculation both under the CDA scheme as also IDA scheme and then informed the petitioner in writing both the said calculations forthwith.

The respondents without prejudice to the rights and contentions to the petitioner shall pay the lesser calculated amount being **Rs.6,33,406/-** under IDA pay pattern and the petitioner shall accept it without prejudice to its rights and contentions.

The entire exercise including the payment by crediting the bank account of the petitioner by the respondents and/or the appropriate authority shall positively be done and completed within a period of **six weeks** from the date of communication of this order. While calculating the amount payable to the petitioner for the time being taking the lesser calculation, the calculation shall be made along with interest @ **6% per annum** from **August 1, 2019** being the immediate succeeding date of the retirement

of the petitioner until the amount is actually tendered to the petitioner.

It is made clear that, in the event any default in making payment as directed herein, the interest shall be calculated and carried out **@ 9% per annum** in the manner and mode as directed above.

Since, the issue as to which module has to be followed in respect of the employees of FCI is pending before the Hon'ble Delhi High Court, it is made clear that in the event, it is found that the petitioner is governed by IDA module and the petitioner will be eligible to receive the higher sum then the additional amount with interest from **August 1, 2019** at the rate directed above till the actual tendering of money shall be paid to the petitioner positively within a period of **eight weeks** from the date of the final decision on the issue.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

With the above observations and directions, this writ petition, **WPA 15032 of 2024** stands **disposed of**, without any order as to costs.

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

(Aniruddha Roy, J.)