17-11-2025
ct no. 10
Sl.13
RP

WPA 21804 of 2025

HMT Machine and Tools Ltd.

-Versus-

State of West Bengal & Ors.

Mr.Arjun Samanta,
Ms. Trishtrya Mancherji
...for the petitioner.

Mr. Jayanta Samanta,
Ms. Mahua Dutta Biswas
...for the State

1. Heard the parties through their respective counsels. Affidavit-of-service is kept on record.

2. None appears on behalf of the respondent no. 7 even remained absent on the last occasion.

3. Learned counsel appearing for the petitioner submits that the petitioner was declared as a sick industrial units in terms of the sick industrial Companies Act, 1985 on 02.11.2006 and a rehabilitation scheme was prepared which was dulyrecorded in the order dated 12.06.2008 passed by the Board for Industrial Financial Reconstruction (BIFR) in case no. 501/2006. Despite the petitioner company was declared a sick industrial unit and was facing huge financial crisis, the gratuity amount was duly paid to its retired employees of marketing division till 2019. The

petitionjer submits that the petitioner has already made payment to the respondent no. 7 who was superannuated on 31.10.2015 to the tune of Rs. 8,89,491/- vide Cheque No. 808471 dated 20.8.2018 being annexure P-2 in the instant writ petition.

4. The respondent no. 7 made a further representation on 12.09.2018 for payment of interest on delayed payment gratuity. Upon considering the same the respondent no. 4 by an order dated 12.02.2020 directed that the respondent no. 7 was eligible for interest for the delayed payment of gratuity amounting to Rs. 2,07,918/- for the period from 01.11.2015 to 20.08.2018 and directed to disburse the same within 30 days.

5. The petitioner submits that in pursuance of such order dated 12.02.2020 passed by the respondent no. 4, the amount to the tune of Rs. 2,07,918/- was also disbursed to the respondent no. 7 on 26.09.2024 being annexure P-8 to the writ petition. Thereafter, respondent no. 7 despite receipt of the interest on delayed payment of the gratuity amount further prayed before the Certificate Officer for payment of Rs.58,046/- on account of simple interest for non-payment of the delayed payment of gratuity. The Certificate Officer directed the petitioner to make a further

payment of Rs. 58,046/- on account of the simple interest to the respondent no. 7 being annexure P-9 to the writ petition.

6. The petitioner submits that it is also recorded in the order dated 30.09.2024 appearing at page 59 of the writ petition shows that the cheque amounting to Rs. 20,7918/- was handed over to the Certificate Holder subject to the filing of a realization report within 7 days receipt of the cheque. Thereafter, by the order dated 02.12.2024, there has been a further direction for realization from the Certificate Holder at the rate of 10% for the period on 01.11.2015 to 20.08.2018 to the tune of Rs.58,046/-.

7. The petitioner further submits that in compliance of the order dated 09.06.2025 the amount of Rs. 58,046/- on account of simple interest was already handed over to respondent no. 7.

8. The petitioner further draws the attention of this Court to the order dated 10.07.2025 at page 75 of the writ petition that a compound interest to the tune of Rs.20,7918/- was to be paid within 10.09.2025. Thereafter, the matter was taken up for hearing by the Certificate Officer on 10.09.2025 but the same was adjourned due to the pending writ petition

filed before this Court fixing the next returnable date on 20.11.2025 for review.

9. The State respondent submits that the petitioner was very much aware of all the orders of the proceeding in Misc 33 of 2021 as the same is apparent from the various order passed in the proceedings. It is further submitted that the petitioner ought to have brought to the notice of the Certificate Officer that the petitioner had already acted in terms of the direction given by the Certificate Officer by making the payments to respondent no. 7. It is further submitted that since the entire payments have been made therefore the questions of making further payment does not arise at all.

10. After hearing the rival contention of the parties and upon perusing the materials on record, I am of the considered view that the Certificate Officer should revisit the issue of the non-payment of the gratuity amount along with the element of payment of simple and compound interest accrued thereon. It appears from the available records that the petitioner had already acted in terms of all the directions of the Certificate Officer which is evident from the proof of payment. The petitioners should not be treated to be at fault by making further payments to the respondent no. 7.

11. The Certificate Officer shall consider the case of the petitioner in the light of the Judgments and order passed by various High Courts in the case of the petitioner since the petitioner has been declared a sick industrial unit.

12. The Judgments and the orders are annexed as P-12 at page 79, 80 and 82 of writ petition along with the proof of payments at page 36, 60 and 62.

13. In view of the above, I hereby set aside the order dated 12.02.2020 at page 47 passed by the respondent no. 4 along with the orders passed in Misc Case No 33/2021 dated 09.12.2020 and 10.09.2025.

14. In terms of the above observation, the writ petition is disposed of along with the other connected applications.

(Smita Das De, J.)