

11.02.2025

Sl. No.: 2
Court No.30
BM

WPA 23075 of 2024

Shri Sailen Roy

Vs.

The State of West Bengal & Ors.

Mr. Amritan Mandal

Ms. Shipra Naskar

... for the petitioner

Mr. Joydeep Banerjee

Ms. Priyanka Jana

... for the State

Ms. Amrita Pandey

... for the private respondents

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

2. The present writ application has been preferred praying for direction upon the respondent nos.3 and 4 to complete the certificate proceeding pending since 2023.

3. On hearing the parties and on perusal of the materials on record, it appears that the Controlling Authority by a notice dated 03.06.2022 and an order dated 03.06.2022 directed payment of gratuity in favour of the petitioner. The said order was duly communicated to the Certificate Officer and the District Magistrate for recovery of the amount of gratuity as the same was not complied by the private respondent no.5.

4. It appears that since 2022 in spite of several notices by the Certificate Officer, the respondent

no.5 did not appear before the Certificate Officer. Finally, a show cause notice was issued on 08.12.2023 directing that in case they fail to appear legal action would follow. The said notice was dated 08.12.2023 but no legal action has been taken by the Certificate Officer till date.

5. It appears that the respondent no.5 herein had approached the Appellate Authority. The said intimation was not provided to the Certificate Officer. The conduct of the respondent no.5 appears to be totally with the intention to avoid paying gratuity which is under a beneficial legislation.

6. The Appellate Authority under the Payment of Gratuity Act, 1972 and Deputy Labour Commissioner, Howrah, rejected the appeal which is as follows :-

*“(7) Any person aggrieved by an Order under Sub Section (4) may,
.....*

Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either procures a certificate of the Controlling Authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under Sub Section (4) or deposits with the Appellate Authority such amount.” In the instant cases, the appellant did not deposit the amount as directed by the Controlling Authority. So the above-mentioned appeal

*petitions filed by the appellant are rejected.
The Controlling Authority(respondent no.1) is
directed to proceed.*

Sd/-

*(Shyamal Kumar Roy Chowdhury)
Appellate Authority
Under the Payment of Gratuity Act, 1972
&
Deputy Labour Commissioner, Howrah”*

7. Considering the said fact and the fact that the petitioner is running from pillar to post for his lawful dues since the year 2022, the writ application is disposed of with the direction that the Certificate Officer shall take all steps as per law to realise the amount of gratuity along with statutory interest till realisation, from the respondent no.5 herein, within 30 days from the date of this order.

8. The writ petition stands disposed of.

9. Urgent Xerox certified copies of this order, if applied for, shall be supplied to the learned counsel for the parties as expeditiously as possible, in compliance of usual formalities.

(Shampa Dutt (Paul), J.)