

11.02.2025

Sl. No.: 4
Court No.30
BM

WPA 23083 of 2024

Shri Sukdeb Nath

Vs.

The State of West Bengal & Ors.

Mr. Amritan Mandal

Ms. Shipra Naskar

... for the petitioner

Ms. Amrita Pandey

... for the private respondents

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

2. None appears for the State.

3. The present writ application has been preferred praying for direction upon the respondent nos.3 and 4 to execute the certificate dated 13th June, 2023.

4. On hearing the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent no.5 and considering the materials on record, it appears that the Controlling Authority under the Payment of Gratuity Act, Howrah had issued a notice to the respondent no.5 on passing an order dated 28.02.2023 directing Payment of Gratuity in favour of the petitioner herein.

5. It appears that the Controlling Authority having fixed several dates directing the respondent no.5 herein to appear finally issued a show cause

notice dated 08.05.2023 as the respondent failed to appear before the Controlling Authority and on receiving no reply to the show cause finally passed an order as follows :-

“ And now therefore, in exercise of the power conferred by Section 8 of the Payment of Gratuity Act, 1972; a certificate is hereby issued for recovery of the said sum of Rs.6,51,911.00/- (Rupees Six Lakh Fifty One Thousand Nine Hundred and Eleven) only as Gratuity which includes simple interest as per statute and it is to be recovered together with compound interest therein @ 15% p.a. from 28.03.2023 i.e. the date of expiry of the time mentioned in the direction till the date of recovery (Rate of interest being in accordance with Central Govt. Notification No.1032(E) dated 01.12.1987 issued under Section 8 of the said Act, of 1972.”

6. An application has been made by the petitioner herein before the Certificate Officer requesting for taking necessary steps for recovery of the gratuity but no action has been taken by the Certificate Officer till date.

7. It appears that an appeal has been pending before the Appellate Authority who disposed of the appeal with the finding 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”*

8. The Certificate Officer is directed to proceed in accordance with law against the respondent no.5 herein to ensure payment of gratuity along with statutory interest till the date of realisation.

9. Considering the said fact and the fact that the petitioner is running from pillar to post for his lawful dues since the year 2023, the writ application is disposed of with the direction that the Certificate Officer shall take all steps as per law to realize the amount of gratuity along with statutory interest till the date of realisation from the respondent no.5 herein within 30 days from the date of this order.

10. The writ petition stands disposed of.

11. 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.)