

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

01 26.8.2025
AB Ct. no.2

WPA 23073 OF 2024

Pradip Saha
Vs.
State of West Bengal & Ors.

Ms. Susmita Dey (Basu)	For the Petitioner
Mr. N. C. Bihani	
Mr. Soumyajit Ghosh.	For the C.S.T.C.
Mr. Srinath Singha Roy	
Mr. Sourab Mondal	 For the State

Affidavit-of-service, filed in Court today, is taken on record.

Ms. Susmita Dey (Basu), learned Advocate appears for the petitioner.

Mr. N. C. Bihani, learned Senior Counsel with Mr. Soumyajit Ghosh, learned Advocate appears for the respondent nos.3 to 5/C.S.T.C.

Mr. Srinath Singha Roy, learned advocate appears for the State.

The principal prayers from the writ petition are quoted below:

“a) A writ in the nature of Mandamus do issue commanding the respondents to disburse the enhanced limit of Gratuity from 12 lacs to 20 lacs as per the Payment of Gratuity Act, 1972, in terms of the Memorandum

being No. 5315-F(P2)/FA/N/2M/50/23(N.B) dated 14th September, 2023 and also the benefits of accumulated unutilized earned leave for maximum 300 days instead of 180 days as per Government Order being No. 4081-WT dated 17.09.2019 along with interest thereon within a stipulated period;

b) A writ in the nature of Certiorari calling upon the respondents to transmit before this Hon'ble Court all records of the case so that conscionable justice may be administered by directing the respondents to disburse the enhanced limit of Gratuity from 12 lacs to 20 lacs as per the Payment of Gratuity Act, 1972, in terms of the Memorandum being No. 5315-F(P2)/FA/N/2M/50/23(N.B) dated 14th September, 2023 and also the benefits of accumulated unutilized earned leave for maximum 300 days instead of 180 days as per Government Order being No. 4081-WT dated 17.09.2019 along with interest thereon within a stipulated period;"

Learned advocate Ms. Susmita Dey (Basu) appearing for the petitioner specifically submits, on instruction from her client that, the petitioner shall relinquish the claim in terms of prayer (b) to the writ petition. Accordingly, the claim in terms of prayer (b) to the writ petition stands relinquished and not pressed for. She further submits that, the portion of prayer (a) in so far as the claim on account of disbursement of enhanced

limit of gratuity from 12 lacs to 20 lacs as per the payment of Gratuity Act, 1972 in terms of the Memorandum dated September 14, 2023 also stands relinquished and the petitioner shall not press for the same reliefs in future in any manner.

The petitioner, therefore, claims monetary benefits on account of **Leave Encashment for 300 days** instead of 180 days. The petitioner submitted a representation dated **June 25, 2024, Annexure – P6 at page 23** to the writ petition but the same has not yet been considered.

In view of the above, the respondent no.3 is directed upon issuing a prior hearing notice of at least **seven days** to the petitioner and after granting him an opportunity of hearing shall consider the said representation dated **June 25, 2024, Annexure – P6 at page 23** to the writ petition by passing a reasoned order in accordance with law.

The entire exercise shall be carried out and completed by the respondent no.3 positively within a period of **eight weeks** from the date of communication of this order. The reasoned order shall be communicated to the petitioner within a further period of **one week** from the date of the said reasoned order to be passed.

It is made clear that this Court has not gone into the merits of the claim of the petitioner and the petitioner shall be at liberty to urge whatever points he wishes to urge by relying upon whatever records, documents, rules and provisions of law before the respondent no.3 but the

same shall not travel beyond the scope of the said representation dated **June 25, 2024**.

In the event the reasoned decision goes in faovur of the petitioner, then the appropriate State authority including the appropriate authority of the Finance Department of the State shall take all necessary and consequential steps to give an immediate effect to the said reasoned order but positively within a period of **four weeks** from the date of communication of the order to such appropriate State authority.

The payment shall be released in favour of the petitioner **positively** within a period of **six weeks** from the date of the said reasoned order to be passed by the appropriate State authority and/or the appropriate authority of the Finance Department of the State.

It is made clear that, this order shall not create any right or equity in favour of the petitioner if the petitioner does not succeed to his claim before the respondent no.3 strictly in accordance with law.

It is also made clear that if the petitioner is found to be eligible to receive **Leave Encashment Salary** the necessary reasoned order shall also be passed even if it is not for 300 days but strictly in accordance with law and the consequential directions as directed above shall be carried out strictly as a mandatory directions of this Court.

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 23073 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.)