

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 30543 of 2024

M/s. Orion Security Solutions Pvt. Ltd.

Vs.

Union of India & Ors.

For the Petitioner	:	Mr. Sudip Palit, Mr. Avirup Roy Sanyal.
For the Respondent/ Union of India	:	Mr. N. Bhattacharya, Ms. Mary Datta.
For the Respondent no. 5	:	Mr. Soumya Majumder, Sr. Adv. Mr. Kinnor Ghosh.
Hearing concluded on	:	29.01.2025
Judgment on	:	07.02.2025

Shampa Dutt (Paul), J.:

1. The present writ application has been preferred against an order dated 15.10.2024 passed by the Deputy Chief Labour Commissioner (Central), Kolkata being the Appellate Authority under the Payment of Gratuity Act, 1972.
2. Vide the order under challenge the Deputy Chief Labour Commissioner (Central), Kolkata and the Appellate Authority under the Payment of Gratuity Act, 1972 passed the following order:-

“Order

An appeal has been preferred under Section 7(7) of the Payment of Gratuity Act from Shri Sarjit Kumar Ganguly against the order dated 19.03.2024 passed by the Asst. Labour Commissioner (Central)-I, Kolkata and Controlling Authority under the Payment of Gratuity Act, 1972. The respondent in this case is M/s. Orion Security Solutions Pvt. Ltd. The appeal has been filed to seek relief from the order of the Controlling Authority in which the Controlling Authority has dismissed the claim for gratuity on the ground of delay in making an application before the Controlling Authority.

On going through the merit of the cases it is seen that the appellant was appointed in the company on 19.04.2011 and resigned from the company on 21st August, 2011. Whether or not his resignation was accepted is not clear in the order. However, the Appellant filed Form-I with the company on 04.05.2022 and Form-N with the Controlling Authority on 17.06.2022.

*It is definitely a matter of record that after holding hearings almost 10 times, the claim of the Appellant was dismissed on the ground of delay in filing of claim has not been condoned. **Apparently the reasons given for dismissal seem to be superfluous. The delay in filing the claim application does not seem to be out of proportion. The payment of gratuity is a social welfare legislation but at the end of the day not many people can understand the procedure and nuances of the same, irrespective of the fact that the claimant may be well read person. The option of condonation of delay have been provided so that no deserving workman***

should be benefit of their statutory dues, which has happened in this matter. The appeal therefore, is upheld and the delay of condonation is allowed. The matter may be reverted back to the Controlling Authority for proper hearing and settling the claim.

This is my order on this day of 15th day of October, 2024.

*Sd/-
Dy. Chief Labour Commissioner (Central)
Kolkata and Appellate Authority under
The Payment of Gratuity Act, 1972"*

- 3. The management has filed a copy of a letter dated 16.12.2024 showing that a meeting has been held between the parties wherein it has been mutually agreed that the dues of the petitioner would be paid along with statutory interest. The said order is as follows:-**

"The applicant joined the service on 19.04.2011 and resigned on 21.08.2021 and submitted Form-I to the respondent on 02.05.2022. The claim was filed on 17.06.2022 after submission of Form-N and notice was issued and subsequently multiple hearings was conducted between 04.08.2022 to 09.12.2024.

Initially the application was disposed of on 19.03.2024 by the then Controlling Authority for delay in filing of the claim application under Payment of Gratuity Act, 1972. Subsequently, the Appellate Authority had condoned the delay on 15.10.2024 the matter was reverted back to the controlling authority for proper hearing and settling of claim.

Based on discussion with the parties, it is understood that respondent is willing to pay the Gratuity claim amount along with statutory interest to the claimant. The respondent submits that they have filed a writ petition before Hon'ble High Court of Calcutta against the order of Appellate Authority dt. 15.10.2024 for Condonation of Delay.

Both parties have agreed before the undersigned that if any adverse order or stay order is not passed by the Hon'ble High Court of Calcutta, before the next date of hearing, the respondent will settle the dispute by paying the claim amount along with statutory interest fixed by the order passed on the next date of hearing.

Upon mutual agreement of both the parties, list it on 13.01.2025 at 04:00 pm in this office.”

4. From the materials on record and relying upon the Judgments of the Hon'ble Supreme Court in:-

- (i) **Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy & Ors., reported in (2013) 12 SCC 649, on 13 September, 2013,**
- (ii) **Pathapati Subba Reddy (Died) by L.Rs. & Ors. vs. The Special Deputy Collector (LA), reported in (2024) 4 SCR 241 : 2024 INSC 286, on 8th April, 2024,**
- (iii) **Banda Development Authority, Banda vs Moti Lal Agarwal & Ors., on 26.04.2011, (AIR 2011 SC (CIVIL) 1288),**

this Court finds no irregularity in the order under challenge and the same thus requires no interference.

5. Considering the minutes of the meeting dated 16.12.2004 between the parties the writ application is disposed of with the direction that **the petitioner herein shall pay all the legitimate dues to which the respondent no. 5 is entitled along with statutory interest at the applicable rate within a period of 30 days from the date of this order.**
6. **WPA 30543 of 2024 is disposed of.**
7. All connected application, if any, stands disposed of.
8. Interim order, if any, stands vacated.
9. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

(Shampa Dutt (Paul), J.)