

01.07.2026
 Item No.16
 Court No. 30
 Aloke

WPA 11625 of 2026

Kumaresh Biswas

-vs-

**The General Manager (West Bengal),
 Food Corporation of India, Kolkata &
 Ors.**

Mr. Kisor Ray
 Ms. Kriti

... for the Petitioner

Mr. Devajyoti Barkan
 Ms. Sanjukta Basu Mallick
 ... for the respondent/
 Food Corporation of India

1. Affidavit-of-service filed be kept with the record.
2. The writ application has been preferred challenging an order dated 28.07.2022, passed by the respondent no. 4, Appellate Authority. The petitioner has prayed for direction upon the respondents 1 and 2 to release gratuity in favour of the petitioner by considering his notional service from 09.06.1999 till 30.09.2019 with interest @ 10% per annum from the date of superannuation till actual payment.
3. On hearing the learned counsels for the parties and on perusal of the

impugned order, it appears that the appellate authority on setting aside the order of the controlling authority has rejected the petitioner's claim for gratuity.

4. The Controlling Authority had granted gratuity in favour of the petitioner for the period from 01.06.1999 to 30.12.2010, which has been set aside by the appellate authority.
5. The petitioner claims that vide an order dated 31.05.2016, he was absorbed with effect from 01.06.2009 but his notional pay was fixed from his date of joining that is 09.06.1999.
6. Learned counsel appearing for the Food Corporation of India submits that the petitioner has approached this Court after a long delay of four years and as such no relief should be granted to the petitioner, considering that the delay may also incur liability of huge interest upon the respondents, if the petitioner's prayer for gratuity is allowed.
7. Considering that gratuity is a beneficial right, the matter is to be considered keeping in mind the principle of natural justice.

8. Learned counsel for the petitioner has further relied upon two paragraphs of the order dated 24.09.2024 passed in MAT 2397 of 2023, which are reproduced herein :

“3. The facts relevant to the case are that the respondent workman was one of 49 persons who was directed to be absorbed within three months from the date of actual award of the CGIT dated 9th June, 1999.”

21. Once a person is notionally absorbed from a particular day, the said day becomes crucial and vital for the length of actual service rendered by such workman with the industry concerned. Gratuity is one of the most vital components of terminal benefits payable to a workman or any other employee. It may end up being the only source of sustenance post superannuation.”

9. Admittedly, the petitioner is similarly placed with the 49 persons whose case was considered earlier.
10. Learned counsel for the respondent/FCI argues that even if the petitioner is similarly placed, he is

not entitled to the benefit, by relying upon the judgments passed in case of other employees.

11. On hearing the learned counsels for the parties and on perusal of the materials on record, this Court finds that admittedly the petitioner's notional pay was fixed on and from 09.06.1999 and thus in view of the observation of the Division Bench in MAT 2397 of 2023 and the observations made therein which have been reproduced above, the petitioner's claim as to the claim of gratuity is prima facie maintainable.
12. Thus, the appellate authority's order suffers from inherent illegality and being erroneous and not in accordance with law, is hereby set aside.
13. The appellate authority is directed to hear the matter afresh and on hearing all the stake holders, dispose of the said appeal by keeping in mind the observations made by this Court in this order and on considering the issue as per the law laid down, shall decide the appeal within 30 days from the date of communication of this order by passing a reasoned order, in accordance with law.

14. The writ application stands disposed of.
15. The respondent authorities are at liberty to pray for appropriate relief before the authority concerned.
16. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Shampa Dutt (Paul), J.)