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19.01.
2026
Ct. No.03

WPA 17635 of 2025

Swapan Pal
Vs.
The State of West Bengal & Ors.

Mr. Sabyasachi Mukherjee
Mr. Mrinmoy Nandy
Ms. Swastika Saha
Mr. Ranabeer Halder
Mr. Siddhartha Kundu
Ms. Anushka Bose
Ms. Debjani Chakraborty
.....For the Petitioner
Ms. Sanchayita De
.....For the State
Mr. Ayan Banerjee
Mr. Dhiman Banerjee
.....For the Municipality

1. In terms of the orders dated 2nd January, 2026 and 14th January, 2026 the additional affidavit filed by the respondent no.6 in court is taken on record.
2. Mr. Banerjee, learned advocate representing the Municipality at the very outset would submit that the entire amount to the extent of Rs. 7,30,000/-, payable on account of gratuity to the petitioner, has already been made over to the petitioner. In so far as the interest component is concerned, he submits that this Hon'ble Court should limit such interest @ 6 per cent per annum, considering the financial constraints faced by the municipality. He submits that since the municipality has already disbursed the entire amount of gratuity in favour of

the petitioner, having regard to the observations made in paragraph 6 of the aforesaid order dated 14th January, 2026 which exempted personal appearance of the respondent no.6 and the Chairman of the municipality, in the event the entire amount was paid, the said respondents are not personally present in court.

3. Ms. Chakraborty, learned advocate representing the petitioner, on the other hand, would submit that an employee is entitled to the gratuity immediately upon his/her retirement. In the instant case the gratuity has been held back. Financial constraints cannot be a ground to be withhold gratuity.
4. Since, the gratuity has not been disbursed in time, a right has accrued in favour of the petitioner to claim interest. Accordingly, the petitioner is entitled to interest @ 10 per cent per annum on the delayed payment of gratuity. In support of her aforesaid contention reliance has been placed in an unreported Judgement delivered by the Hon'ble Supreme Court in the case of **“Gagan Bihari Prusty Vs. Paradip Port Trust & Ors:”** in SLP (C)No. 4468 of 2022 dated 3rd March, 2025.
5. Having heard the learned advocates appearing for the respective parties and noting that the statute mandates interest @ 10 per cent per annum on

delayed payment of gratuity, I am of the view that in the instant case the municipality should be directed to make payment of the interest @ 10 per cent per annum on the amount which was paid belatedly by computing interest @ 10 per cent per annum from the date when the same became due till the date of making actual payment.

6. At the same time also noting that the municipality has submitted that the arrear pension has already been processed and the same is likely to be disbursed in favour of the petitioner, I am of the view that nothing further survives in the matter and the affidavits filed by the respondent no.6 and the Chairman of the municipality do not require further consideration.
7. The writ petition stands disposed of with a direction that the arrear payment on account of pension be disbursed within a month from date. The interest also paid at the earliest.
8. Urgent photostat certified copy of this order, if applied for, be supplied to the parties on urgent basis after completion of all necessary formalities.

(Raja Basu Chowdhury, J.)

