
(2020) 02 CAL CK 0064

In the Calcutta High Court

Case No : Writ Petitions (WP) No. 2140 Of 2020

Indranil Ghosh

APPELLANT

Vs

State Of West Bengal & Ors

RESPONDENT

Date of Decision : 14-02-2020

Acts Referred:

Payment Of Gratuity Act, 1972 — Section 4, 7, 7(2), 7(3), 7(3)(A), 7(3)(2), 7(3)(3)

Citation : (2020) 02 CAL CK 0064

Hon'ble Judges : Amrita Sinha, J

Bench : Single Bench

Advocate : Manika Roy, Susanta Pal, Ananya Neogi

Final Decision : Disposed Of

Judgement

Amrita Sinha, J

The petitioner was associated as a Visiting Expert of Roopkala Kendro in the Editing Department in November 2005. He was selected as Faculty

Member in the Editing Department of Roopkala Kendro on 29th June 2006.

The petitioner submitted his resignation on 19th July 2013. The resignation of the petitioner was accepted and his terminal benefits were released in his favour.

The petitioner complains that the gratuity which he is entitled to, has not been paid. The petitioner applied before the Director & CEO of Roopkala

Kendro for disbursal of his gratuity on 30th December 2013. The petitioner followed up his prayer for releasing his gratuity by giving repeated representations.

The petitioner submits that similarly circumstanced employees have been paid gratuity after their resignation. The petitioner alleges that he has been

illegally discriminated.

The petitioner prays for a direction upon the respondent authorities for disbursal of the gratuity amount which is due and payable in his favour.

The learned advocate appearing on behalf of the respondents submits that the petitioner tendered his resignation in 2013 and has approached this court

in the year 2020. There is no explanation for the delay in approaching this court. It has further been submitted that on resignation the gratuity amount

stood forfeited and the petitioner is not entitled to receive any gratuity from the employer.

The petitioner submits that since the gratuity is a part of his post-retiral benefits, delay will not stand in the way of disbursal of the legal dues in his

favour.

The petitioner relies upon Section 4 of the Payment of Gratuity Act, 1972 wherein it has been mentioned that gratuity shall be payable to an employee

on the termination of his employment after he has rendered continuous service for not less than five years on his retirement or resignation.

The learned advocate for the respondents relies upon Section 7 of the said Act wherein it mentions that a person, who is eligible for payment of

gratuity under this Act shall send a written application to the employer, within such time and in such form, as may be prescribed for payment of such

gratuity.

Section 7(2) of the said Act mentions that as soon as gratuity becomes payable, the employer shall, whether an application referred to sub-section (1)

has been made or not, determine the amount of gratuity and give notice in writing to the person to whom the gratuity is payable and also to the

controlling authority specifying the amount of gratuity so determined.

According to Section 7(3), the employer shall arrange to pay the amount of gratuity within thirty days from the date it becomes payable to the person

to whom the gratuity is payable and according to Section 7(3)(A) if the amount of gratuity payable under sub-section (3) is not paid by the employer

within the period specified in sub-section (3), the employer shall pay from the date on which the gratuity becomes payable to the date on which it is

paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long term deposits, as

the Government may by notification specify.

In the instant case it appears that the employer failed to comply the provision as mentioned in Section 7(3)(2) and 7(3)(3) of the aforesaid Act.

In view of the above, the instant writ petition is disposed of by directing the respondent no. 3 to take immediate steps to consider the prayer made by

the petitioner for releasing the gratuity which is due and payable in his favour strictly in accordance with the Payment of Gratuity Act, 1972 within a

period of eight weeks from the date of communication of a copy of this order. The said respondent shall pass a reasoned order and communicate the

same to the petitioner within a fortnight thereafter.

Affidavit of service filed in court is taken on record.

W.P. No. 2140 (W) of 2020 is disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.