

(2014) 06 CAL CK 0073
In the Calcutta High Court
Case No : W.P. 12491(W)/2014

Ramdas Naw

APPELLANT

Vs

Bank of India

RESPONDENT

Date of Decision : 18-06-2014

Acts Referred:

Payment of Gratuity Act, 1972 — Section 7

Citation : (2014) 142 FLR 1066 : (2014) LLR 869

Hon'ble Judges : Soumen Sen, J

Bench : Single Bench

Advocate : Souma Majumdar, Jayabrata Basu Ray and Nirmalya Das Gupta, Advocate for the Appellant; R.N. Majumdar, Sourav Chakraborty and Supratim Bhattacharjee, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Soumen Sen, J.—Although this order is an appealable order and the petitioner has not preferred any appeal against the order passed by the Controlling Authority, this writ petition is taken up and disposed of on merits. The petitioner was an employee of the respondent-bank. He retired from service on 15th. December, 2000. He received all his service benefits on or before, 2006. Thereafter, in 2011, he filed an application u/s 7 before the Controlling Authority under the Payments of Gratuity Act, 1972 for determination of the amount of gratuity payable. The Assistant Labour Commissioner (Central), being the Controlling Authority took an extremely liberal view in entertaining the said application. Although this Court is of the view that by reason of such long delay which had remained unexplained, the authority ought to have dismissed the said application, the controlling authority on consideration of the evidence on record appears to have correctly held that no amount of gratuity is payable to the ex-employee. In arriving at the said conclusion the controlling authority had taken into consideration the statement of accounts furnished by the bank.

2. Mr. Majumdar, learned counsel appearing on behalf of the petitioner submits

that all that the bank would establish before the authority concerned is that a sum of Rs. 1,78,836 was realized by the Dharmatalla Branch of the Bank towards gratuity amount, but the Bank has failed to prove that the said amount has been paid towards gratuity to the writ petitioner. The order records that the accounts furnished before the authority concerned would show that from time to time the respondents had realized over a period of time a sum which is close to Rs. 1.7 lakhs and at this distant point of time it would be difficult for the bank to produce any document to show the payment of such amount. The petitioner does not impute any mala fide on the said bank. The petitioner was superannuated in the normal course of his career. There could not be any reason for the bank not to pay gratuity after the same was received on the Dharmatalla Branch on 8th March, 2001. Delay not only defeats equity but at the same time it makes a right unenforceable. Even if it is accepted that the petitioner has received the entire amount excepting gratuity in 2006, the petitioner ought to have raised such dispute before the controlling authority immediately as within a reasonable time. The petitioner remained silent for almost ten years in respect of his claim towards gratuity. The explanation offered by the Bank for payment towards gratuity cannot be said to be Imaginary or without any basis or foundation. The bank did not withhold any information. In view of the aforesaid findings recorded by the controlling authority, in my view, does not suffer from any infirmity. The writ petition accordingly stands dismissed.

There shall, however, be no order as to costs.