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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 19771 of 2022

Calcutta Jute Manufacturing Company Limited
Vs.
State of West Bengal & Ors.

Mr. Soumya Majumder
Mr. S. K. Singh
Mr. R. K. Dubey
.... For the petitioner.

Mr. Susovan Sengupta
Mr. Sanatan Panja
... For the State.

Ms. Senjuti Sengupta
Mr. R. Guha Thakurta
Ms. Dipa Roy
.... For the respondent no. 4.

The writ application has been filed, *inter alia*, challenging the orders dated 25th September, 2017 and 18th December, 2021, passed by the Controlling Authority and the Appellate Authority respectively under the Payment of Gratuity Act, 1972 (hereinafter referred to as the “said Act”).

Mr. Majumder, learned advocate representing the petitioner submits that one of the issues involved in the instant application is whether a *budli* employment can be treated to be a continuous service within the meaning of the said Act. He says that the respondent no.4 was in *budli* employment between 29th November, 1973 and 28th October, 1989 and, as such, the respondent no.4 could



not have been treated to be in continuous service for the aforesaid period. This aspect has not been considered by the Controlling authority. There are other grounds for challenging the impugned orders. He says that the entire amount as determined by the Controlling Authority constituting principal gratuity amount payable to the respondent no.4 has already been deposited with the Controlling authority. He further submits that the writ petitioner could not succeed in the statutory appeal as the appellate authority also applied the wrong test in determining continuous service. He says that there is every likelihood of the respondent no.4 seeking enforcement of the orders impugned in the present application. As such he prays for an interim order restraining the respondents from giving effect and/or further effect to the orders impugned in the present application.

Mr. Guha Thakurta, learned advocate representing the respondent no.4 submits that the Controlling Authority had rightly determined the gratuity amount payable to the respondent no.4. He submits that no interim order should be passed in favour of the petitioner. He says that his client has already received the cheque insofar as principal amount of gratuity is concerned.

I have heard the submissions of the learned advocates appearing for the respective parties and



considered the materials on record. I am of the view that this writ application should be heard upon exchange affidavits.

There shall be an interim order restraining the respondent no.4, from realising the quantum of interest as determined by the Controlling Authority vide its order dated 25th September, 2017 till disposal of the instant writ application.

Let affidavit-in-opposition to the present writ application be filed within a period of four weeks from date. Reply, if any, thereto be filed within two weeks thereafter.

Liberty to mention after completion of affidavits.

(Raja Basu Chowdhury, J.)