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IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE

**WPA 19829 of 2023**

Kashinath Naskar  
Vs.  
The State of West Bengal & Ors.

Mr. Rananeesh Guha Thakurta  
Ms. Senjuti Sengupta  
Ms. Dipa Roy  
... For the petitioner.

Mr. Rudrajit Sarkar  
Mr. Debanghu Dinda  
... For the State.

Ms. Amrita Pandey  
Ms. Sneha Singh  
... For the respondent no.5.

The present writ application has been filed, inter alia, praying for a direction upon the respondent no.4 to execute the certificate issued under Section 8 of the Payment of Gratuity Act, 1972 (hereinafter referred to as the “said Act”).

It is the petitioner’s case that the petitioner was employed with the respondent no.5. He has since been superannuated on 1<sup>st</sup> January, 2015. Despite superannuation since, gratuity was not disbursed in his favour, he had filed an application before the Controlling Authority under the said Act which was registered as Case No.G-18 of 2018.

On contest, by an order dated 25<sup>th</sup> May, 2022, the Controlling Authority was inter alia, pleased to determine

the gratuity payable in favour of the petitioner and by a notice in Form 'R' of even date had called upon the respondent no.5 to make payment of the aforesaid gratuity for a sum of Rs.4,07,858/- together with interest thereon.

Despite receipt of such notice since, the respondent no.5 did not make payment of gratuity, the petitioner was compelled to initiate a proceeding under Section 8 of the said Act. In connection with such proceeding a certificate was issued by the Controlling Authority on 28<sup>th</sup> October, 2022 and the same was transmitted to the Certificate Officer and the District Magistrate, Howrah, for execution.

Mr. Sarkar, learned advocate representing the respondent nos. 1 to 4 files in Court today a report in the form of an affidavit, which is taken on record.

Mr. Sarkar, by relying on the report in the form of an affidavit affirmed by the Certificate Officer submits that from time to time the respondent no.5 had been called upon to comply with the aforesaid certificate. Despite issuance of several reminders and notice of hearing since, the respondent no. 5 did not turn up, a notice of show-cause as to why warrant of arrest shall not be issued against the respondent no.5 had been issued by the Certificate Officer on 30<sup>th</sup> August, 2023. According to Mr. Sarkar, since, the respondent no.5 had not responded to the said notice, by a communication dated 8<sup>th</sup> September, 2023

the Officer-in-Charge, Hare Street Police Station, has been directed to execute the warrant of arrest dated 8<sup>th</sup> September, 2023 and the matter was returnable on 21<sup>st</sup> September, 2023. I have been informed that till date the aforesaid warrant of arrest has not been executed.

Having regard to the aforesaid since, it appears that the certificate debtor is avoiding the certificate officer and has no regards for orders passed by the competent authority as also taking note of the fact that the warrant of arrest till date has not been executed without any cause, I find that it is a fit case to direct the Officer-in-Charge, Hare Street Police Station, to forthwith execute the aforesaid warrant of arrest dated 8<sup>th</sup> September, 2023 and to file compliance report before this Court on or before the returnable date.

List this matter for further consideration on 4<sup>th</sup> October, 2023.

**(Raja Basu Chowdhury, J.)**