

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

**The Hon'ble Justice Lanusungkum Jamir
And
The Hon'ble Justice Rai Chattopadhyay**

**MAT 1286 of 2025
With
I.A. No.: CAN 1 of 2025
*Food Corporation of India
Vs.
Joydeb Dutta and Ors.***

With

**FMA 1367 of 2025
With
I.A. No.: CAN 1 of 2025
*Food Corporation of India & Ors.
Vs.
Gopal Ch Ghosh & Ors.***

With

**MAT 1280 of 2025
With
I.A. No.: CAN 1 of 2025
*Food Corporation of India & Ors.
Vs.
Shiba Prasad Karmakar & Ors.***

With

**MAT 1281 of 2025
With
I.A. No.: CAN 1 of 2025
*Food Corporation of India & Ors.
Vs.
Shiba Prasad Maji & Ors.***

With

MAT 1283 of 2025

With

I.A. No.: CAN 1 of 2025

**Food Corporation of India & Ors.
Versus
Shyamal Kr Chatterjee & Ors**

With

MAT 1287 of 2025

With

I.A. No.: CAN 1 of 2025

***Food Corporation of India & Ors.
Vs.
Hari Pada Ghosh & Ors.***

With

MAT 1288 of 2025

With

I.A. No.: CAN 1 of 2025

***Food Corporation of India & Ors.
Vs.
Himangshu Karmakar & Ors.***

With

MAT 1291 of 2025

With

I.A. No.: CAN 1 of 2025

***Food Corporation of India & Ors.
Vs.
Gopal Roy & Ors.***

With

MAT 1296 of 2025
With
I.A. No.: CAN 1 of 2025

Food Corporation of India & Ors.
Vs.
Gorachand Chowdhury & Ors.

With

MAT 1298 of 2025
With
I.A. No.: CAN 1 of 2025

Food Corporation of India & Ors.
Vs.
Lakshmi Kanta Ghosh & Ors.

With

MAT 1299 of 2025
With
I.A. No.: CAN 1 of 2025

Food Corporation of India & Ors.
Vs.
Sital Ch Pramanik & Ors.

With

MAT 1301 of 2025
With
I.A. No.: CAN 1 of 2025

Food Corporation of India & Ors.
Vs.
Radhanath Ghosh & Anr.

With

MAT 1302 of 2025
With
I.A. No.: CAN 1 of 2025

Food Corporation of India & Ors.
Vs.
Tusu Mondal & Ors.

For the appellant/FCI : Mr. Kamal Kr. Chattopadhyay
: Mr. Rimi Chatterjee

For the respondents : Mr. Samiran Mandal
: Mr. Abhinaba Dan
: Ms. Sremoyee Dutta

Heard on : **09/12/2025**

Judgment on : **09/01/2026**

Rai Chattopadhyay, J. :-

- 1.** The impugned judgment is dated June 23, 2025 passed by the writ Court simultaneously in various writ petitions, which is under challenge in the intra Court appeals, as noted above.
- 2.** The lis is related to the disputed question of applicability of interest on gratuity paid to the respondents. All the appeals as mentioned above involve the same issue, hence were taken up together for hearing analogously and are being disposed of by dint of the instant common judgment.
- 3.** It is necessary that the factual background of the cases may be stated in a nutshell. The private respondents in the respective appeals have been engaged with the appellant/Food Corporation of India, as contractual employees through Handling and Transport contractors,

at the various food storage depots. They are commonly known as Contract Casual Labourers (CCLs).

4. A Single Bench of this court in order dated June 23, 1998 in WP No. 1491 of 1997 (***Shyamal Kumar Chatterjee and Others Vs. Food Corporation of India and Others***) directed the FCI authorities to pay wages to the writ petitioners including arrears, at par with the wages of the Class IV Staff of the FCI.
5. On September 28, 2000, the Supreme Court directed in Civil Appeals No. 6064 - 6065 of 1998, that the rate of wages payable to such employees will be 1/26th of the monthly wages of the Class IV employees, without going into or adjudicating on any other right of the said contractual labourers engaged in FCI food storage depots.
6. In 2010, vide order dated January 14, 2010 in Civil Appeal No. 9472 - 9473 of 2003, the Hon'ble Supreme Court, while adjudicating the grievance of the applicants before it, on a situation when the contractor was not paying wages regularly to the contractual employees, gave direction about payment of wages to such contractual employees directly by the said principal employer/Food Corporation of India, without any involvement of the contractors.
7. Since thereafter, the appellant/Food Corporation of India has been directly paying remuneration to the contract labourers as per direction

of the Hon'ble Supreme Court and without absorbing them in its own roll.

- 8.** The CCLs were retired after reaching the age of superannuation respectively. On September 19, 2019, the said CCLs including the respondents in the present appeals, applied before the Controlling Authority under the Payment of Gratuity Act, 1972 claiming gratuity. The Controlling Authority, by dint of its order dated January 19, 2022 directed the appellant/Food Corporation of India to pay gratuity to the CCLs but declined to pass any order directing for payment of interest on gratuity, on the appellant Corporation, for delay in payment.
- 9.** The FCI preferred an appeal against such order of the Controlling Authority. The Appellate Authority has decided by affirming the order of the Controlling Authority as above, vide its order dated December 27, 2022.
- 10.** In a writ petition filed by the FCI being WPA No. 6387 of 2023, this Court vide order dated July 03, 2023 has confirmed both the orders of the Controlling Authority and the Appellate Authority under the Payment of Gratuity Act, as mentioned above.
- 11.** Mr. Kamal Kr. Chattopadhyay, learned advocate for the appellant/FCI has submitted that the order of the High Court in WPA No. 6387 of 2023 dated July 03, 2023 has culminated to be a finally settled position that, the present private respondents in the individual

appeals mentioned above, though would be entitled for payment of gratuity, but would not be entitled for any interest thereon as has been held by the Controlling Authority and subsequently affirmed by the Appellate Authority as well as the Hon'ble Single Bench of this Court in order dated July 03, 2023. According to him, a fresh writ petition on the self-same subject matter as the instant one (WPA 7603 of 2025) does only re-agitate the issue which has already been finally decided.

- 12.** Mr. Chattopadhyay has emphatically submitted that, the impugned judgment is not to be sustained in the eye of law in so far as that amounts to overturn the settled position as has been decided by dint of an earlier order of this Court. He says that, the Hon'ble Court while passing the impugned judgment dated June 23, 2025 has erroneously acted as if it was an appeal Court. He says that the Court could not have deviated from what has already been finally settled in this regard.
- 13.** Mr. Chattopadhyay has submitted further that the Supreme Court while allowing the contract labourers to be remunerated directly by the FCI due to non-payment of wages by the contractor regularly, has not considered the issue of absorption of the said labourers in regular service of FCI. Also that, in doing so, the Supreme Court has not passed any direction to that effect.

14. He next submits that, after the order of the Controlling Authority for payment of gratuity to the private respondents in the respective appeals and that being affirmed by the Appellate Authority in the appeal, the appellant/FCI has, within no time, deposited the entire due amount of gratuity payable to the contract labourers, as directed. Hence, according to the said appellant, there would not be any occasion of delay in payment of gratuity as alleged. Mr. Chattopadhyay says that, entitlement of the labourers, for being paid with the gratuity amount in this case, emanates only from the order of the statutory authority/Court. Therefore, the appellant, having immediately deposited the gratuity amount after the order of the Authority/Court cannot be rendered as a defaulter, due to alleged belated payment of gratuity.

15. In such circumstances, Mr. Chattopadhyay has submitted that, the impugned judgment of the Hon'ble Single Judge dated June 23, 2025 directing for grant of 18 per cent interest on the amount of gratuity, on the ground of delay in payment of gratuity, is erroneous, unreasonable and arbitrary. Mr. Chattopadhyay has submitted that the Hon'ble Single Judge has failed and erred in considering that after the order of this Court dated July 03, 2023 in WPA No. 6387 of 2023, the issue has been finally settled that, since the gratuity was payable to the contract labourers, not as per the conditions of service but by the Court's order, the liability of FCI/appellant should be reckoned only from the date of the Court's order and not otherwise. Further that

the Court in the impugned judgment has not taken into consideration the position as settled by dint of Court's order dated July 03, 2023 and thereby has overridden the Court's earlier order which is unsustainable in the eye of law.

- 16.** For the reasons and grounds as above, Mr. Kamal Kr. Chattopadhyay, learned Advocate for the appellant/FCI has sought for setting aside of the order of the Hon'ble Single Bench in WPA No. 7603 of 2025 dated June 23, 2025.
- 17.** Mr. Samiran Mandal has represented the private respondent/contractual workers in the respective appeals as mentioned above. He has mentioned as the background of the case about alleged long deprivation of the said respondents. He submits that, since 1989, the said persons were engaged in FCI and worked therein continuously. However, since 1996, their wages were stopped, which prompted them to move the Court. Admittedly, by virtue of the orders of the Court the said contractual employees/respondents have been receiving wages at the stipulated rate, directly from the appellant/principal employer/FCI.
- 18.** It is submitted that the contractual services of the respective respondents ended somewhere in the year 2016. Thereafter, they have prayed before the statutory authority for grant of gratuity and their prayers were allowed by the said authority, however, without any direction for payment of interest thereupon.

- 19.** Mr. Mandal has submitted that, interest on gratuity due to delay in payment of the same, is a statutory right, which cannot be overridden by any order of the Court or Authority. Hence, according to him, it is not the discretion of the Authority but the mandate of the statute itself that, in case of delayed payment of gratuity, the concerned person should be compensated with appropriate interest during period of such delay.
- 20.** Mr. Mandal has further submitted that, admittedly after being superannuated in the year 2016, the respondents have been granted gratuity in terms of the order of the Authority dated January 19, 2022. Therefore, according to him, there is evident and admitted delay from the year 2016 to the year 2022. That the employees have not been paid gratuity immediately after their superannuation; only pursuant to the order of the Controlling Authority, the appellant has deposited the amount so directed to be paid, before the Appellate Authority to prefer an appeal.
- 21.** Hence, according to the said respondents, pursuant to the statutory provision and due to the delay in payment of gratuity the appellant should be held liable for payment of interest on the gratuity amount paid by the same to the respondents. In that view of the matter, Mr. Mandal has submitted that, the impugned order of the Hon'ble Single Judge as mentioned above suffers with no impropriety or illegality

whatsoever, as alleged. He insists that, there may not be any interference as to the same.

- 22.** The order of the controlling Authority dated January 19, 2022 directing the appellant/FCI to pay gratuity to the respondent contract labourers upon their attaining the age of superannuation has been subsequently affirmed by the Appellate Authority on December 27, 2022 and this Court vide order dated July 03, 2023. The relevant statutory provision is required to be mentioned, which is as follows:-

“Section: 7

Determination of the amount of gratuity-

(3A) 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 that Government may, by notification specify:

Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the controlling authority for the delayed payment on this ground.”

- 23.** It has been argued on behalf of the respondents that, interest on gratuity is the statutory liability/duty of the employer in case of delayed payment and would be payable irrespective of what the Authorities direct about the same. It has been argued that, the Authority has no discretionary power to override by order the statutory provision for payment of interest due to delay in payment of

the gratuity amount, which this Court considers to be a lawful and appropriate proposition attracted in the instant case.

- 24.** The specific provision of the Payment of Gratuity Act as quoted above has mandated payment of interest at a suitable rate to the recipient when he has not been remitted with the gratuity amount immediately after conclusion of his service period. Gratuity is the acknowledgement of the prolonged, diligent and effective service of an employee, delay in payment of which is not acceptable in law.
- 25.** Alongside the same, the provisions under section 8 of the said Act of 1972 should also be mentioned which has provided that the Controlling Authority may issue a certificate in case of non-payment of the statutory gratuity in time for recovery by the Collector of the said amount together with compound interest thereon at the prescribed rate, from the date of expiry of the prescribed time.
- 26.** Undisputedly, the respondents have been superannuated in the year 2016. It is also a fact that, vide Court's order dated January 14, 2010 (Civil Appeals No. 9472 to 9473 of 2003) the contractual employees of the appellant were directed to be paid wages by the appellant itself, without involvement of the contractor. In this regard, it is also noticeable as to who would be entitled for payment of gratuity under the said statute, as provided under Section 2 sub-section (e). Let the said provision be quoted below:-

“2(e) “employee” means any person (other than an apprentice) who is employed for wages, whether the terms of such employment are express or implied, in any kind of work, manual or otherwise, in or in connection with the work of a factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act applies, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity;”

- 27.** Therefore, according to the statutory scheme and provisions, person employed for wages, other than an apprentice, on even the implied terms, would be eligible for payment of gratuity, if the institution is covered under the Act of 1972. The definition of the term “employee” under the provision of section 2 (e) of the said Act is an inclusive one and does not exclude a person who is employed for wages, in the appellant Corporation, in terms of the Court’s order, irrespective of his being or not absorbed or regularized or on the rolls of the institution.
- 28.** The appellant is covered under the Act of 1972. The respondents, who were earlier engaged with the appellant/FCI through the contractor as the contract labourers, are now under direct control and supervision of the appellant itself who pays their wages directly. This way, they are employed with the appellant for wages. Whether that is due to the Court’s order, is irrelevant and inconsequential, vis-à-vis their status and entitlement under the Act of 1972. In such circumstances, the said respondents are entitled for payment of statutory gratuity, being within the purview of Section 2 sub-section (e) of the said Act and being covered under sections 7 (3-A) and 8 thereof. To that extent the

orders of the Controlling Authority, the Appellate Authority as mentioned above and the Hon'ble Single Bench of this Court dated July 03, 2023 are just legal and proper.

- 29.** That being so, the appellant cannot successfully seek to disentitle the respondents from the benefit of interest on delayed payment of gratuity as stipulated in the statute itself. It naturally flows from the statute itself, once their status can be seen to be within the purview of the statutory definition of "employee", as provided under the said statute. The appellant once having complied with the Supreme Court's order dated January 14, 2010 by bringing the respondents under the direct coverage of wages paid by the same and also the order of the Controlling Authority for payment of gratuity to the respondents, duly affirmed by the Appellate Authority as well as this Court, cannot now retract from its responsibility to comply with the other provision of said law, stipulated with regard to delay in payment of such gratuity.
- 30.** Though, according to the appellant, there is no delay in payment of gratuity by the appellant, the same having deposited the amount immediately after the verdict of the Controlling Authority, with the Appellate Authority, this Court is of considered opinion that, by saying so, the appellant refers to an incident of 2022, although the respondents have retired significantly earlier, in the year 2016. The order of the Supreme Court dated January 14, 2010 being in vogue and duly complied with, the appellant's plea of ignorance or its claim

that the respondents would not be entitled for any gratuity, is a feeble and unsustainable plea. The Court is constrained to find that, the appellant has delayed in paying the gratuity amount in favour of the contract labourers, whom they have employed by paying wages directly.

- 31.** For the reasons as above, this Court is unable to find any such palpable or gross illegality in the order of the Hon'ble Single Judge as impugned in this appeal that is dated June 23, 2025 in WPA No. 7603 of 2025, to be interfered with, in this intra Court appeal. However, so far as the rate of interest as has been directed to be paid by the appellant that is, at the rate of 18% per annum is modified in terms of S.O. 874 (E) dated October 1, 1987, to be at the rate of 10% simple interest per annum. Rest of the judgment as impugned in this appeal remains as it is.
- 32.** With the directions as above, the appeals as mentioned in the cause title above, along with applications pending if any, are disposed of.
- 33.** Urgent certified copies of this judgment, if applied for, be supplied to the parties, upon compliance with all requisite formalities.

(Lanusungkum Jamir, J.)

(Rai Chattopadhyay, J.)