

Court No. - 33

Case :- WRIT - A No. - 1571 of 2022

Petitioner :- Ramji Yadav And 2 Others

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Bhanu Pratap Singh

Counsel for Respondent :- C.S.C., Ramakant Singh, Ravindra Singh

Hon'ble J.J. Munir, J.

Heard Mr. Bhanu Pratap Singh, learned Counsel for the petitioners, Mr. Ravindra Singh, learned Counsel appearing on behalf of respondent nos. 3 and 4 and Mr. Girijesh Kumar Tripathi, learned Counsel on behalf of the State.

The petitioners have filed this writ petition challenging an order dated 30.10.2021, passed by the General Manager, Kisan Sahkari Chini Mills Limited Ghosi, District-Mau, rejecting their claim to payment of gratuity. The ground for denial of the petitioners' claim is that they are daily-wagers and according to the Uttar Pradesh Co-operative Sugar Mills and Distilleries Employees Service Regulations, 2015, employees are defined *vide* Section 2(झ) as a full time employee holding a temporary, and permanent or seasonal post but not a daily-wager. The Authority has taken the view that payment of gratuity to a daily-wager is absolutely beyond the regulations directing provision of gratuity to the employees of a Sugar Mill.

The learned Counsel for the petitioners submits that the petitioners do not dispute the position that they are daily-wagers, but says that even a daily-wager is entitled to payment of gratuity by virtue of the Payment of Gratuity Act, 1972 (*for short, 'the Act of 1972'*), if

he has worked for more than five years in the establishment. In case, the petitioners have a case to make out under the Act of 1972, they have to approach the statutory authorities appointed under the said statute, who will examine their case with reference to the facts pleaded and the evidence offered regarding various matters, including the period of time that they have worked with the employers and the number of days in a month that they are working and further during the entire year. These facts cannot be gone into in the present writ petition under Article 226 of the Constitution.

In these circumstance, while declining to interfere with the impugned order dated 30.10.2021, passed by the General Manager, Kisan Sahkari Chini Mills Limited Ghosi, District-Mau, it is provided that the petitioners will be at liberty to establish their claim by moving the controlling authority appointed under the Act of 1972, who shall decide their claim in accordance with law after hearing all parties.

It is made clear that the order impugned passed by the General Manager of the Sugar Mill will not be an impediment for the controlling authority in taking a decision in the matter in accordance with law.

This petition is **disposed** in terms of the aforesaid orders.

Let this order be communicated to the General Manager, Kisan Sahkari Chini Mills Limited Ghosi, District-Mau by the Registrar (Compliance).

Order Date :- 31.10.2023

Prashant D.