

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 499 of 2015**

1. Smt. Jagbai Manikpuri, widow of Late Chamradas Manikpuri, Age About 56 years.
2. Dhirdas Manikpur, son of Late Chamradas Manikpuri, Age About 36 Years.
3. Ganeshdas Manikpuri, son of Late Chamradas Manikpuri, Age About 33 Years.
4. Maheshdas Manikpuri, son of Late Chamradas Manikpuri, Age About 30 Years.
5. Dhaneshri Manikpuri, son of Late Chamradas Manikpuri, Age About 25 Years.

All R/o Village Chicharda, Post Chakarbhantha, Tahsil Sakri, District Bilaspur (CG) Civil & Revenue District Bilaspur

---- Petitioners**Versus**

1. State of Chhattisgarh Through Secretary Water Resources Department, Sachivalaya, Mahanadi Bhawan Naya Raipur (C.G.)
2. Executive Engineer, Water Resources Survey And Bairage Construction, Division No.1 Kharsiya District Raigarh (C.G.)

---- Respondents

For Petitioners	:	Shri Dinesh Tiwari, Advocate
For Respondents/State	:	Shri Shashank Thakur, GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board By****08/07/2015**

1. Learned counsel for both the parties would agree that the matter pertains to payment of gratuity, retiral dues etc. admissible to the deceased employee, if any, may be referred to the pension committee.

2. This Court, in the matter of W.P. No. 4642/2004 (*Bajjnath Mandal v. The State of Chhattisgarh & Others*) and other connected matters, directed the Committee to consider the matter of retiral dues as the disputed question of facts were involved. The Committee was constituted by the State Government, pursuant to the order dated 19/06/2006 passed in W.P. No. 1961/2006 (*Smt. Keja Bai Chandrakar Vs. State Government and Others*) and order dated 13/03/2008 passed in M.C.C. No. 105 of 2008 (*State of Chhattisgarh & Others V. Bajjnath Mandal and another*). Thus, this petition is squarely covered by the judgment and order dated 31st of January, 2008 passed in W.P. No. 4642/2004 *Bajjnath Mandal (supra)* as submitted by learned counsel appearing for the parties.
3. This petition is accordingly disposed of in the same terms i.e. the office of the Advocate General is directed to send the case to the Committee, within a period of 15 days from the date of receipt of a copy of the petition from the petitioners and this order. Thereafter, the Committee shall issue notice to the petitioners and the officers concerned, within a further period of 15 days. The Committee shall consider and pass order, in accordance with law, after affording proper opportunity of hearing to the parties. The petitioners and the officers concerned may file additional documents, if necessary. The entire exercise, including death-cum-retrial dues of the deceased employee and other pensionary benefits, if any, to the petitioners be completed within a period of three months from the date of receipt of a copy of this order.
4. The petitioners shall supply extra copy of the petition to learned counsel appearing for the State/respondents for forwarding the same to the Committee.
5. Learned counsel for the petitioners would submit that liberty may be

reserved in favour of the petitioners to move afresh writ petition if the decision made by the Committee on anyone of the claim including claim for interest is decided against the petitioners.

6. Liberty as prayed for is granted.

7. Accordingly, writ petition stands disposed of.

Sd/-

Judge

Prashant Kumar Mishra

Ashu

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WP227 No. 499 of 2015Smt. Jagbai Manikpuri **Versus** Executive Engineer

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08/07/2015	Heard Shri Dinesh Tiwari, Advocate for the petitioners and Shri Shashank Thakur, GA for the State. Petitioner is the widow of deceased Chamradas, who retired on 30-4-2012, however, he was not paid any gratuity, therefore, the petitioners preferred an application for payment of gratuity before the Assistant Commissioner-cum-Controlling Authority, under the Payment of Gratuity Act, 1972 (for short 'the Act, 1972'). Their application was allowed by order dated 1-6-2013, however, the appellate authority, by the impugned order, has set aside the order on the ground that in respect of a Government servant, the controlling authority has no jurisdiction to decide an application under the Act, 1972. In the considered opinion of this Court, the appellate authority has not committed any illegality while passing the impugned order, holding that petitioners' application before the controlling authority was not maintainable, however, at the same time, the issue concerning payment of gratuity is also required to be considered by the Government, therefore, the petitioner is required to implead the State of Chhattisgarh through Secretary Water Resources Department, as party/respondent. At this juncture, learned counsel for the petitioners would orally pray that he may be permitted to implead the State of Chhattisgarh, through the Secretary, Water Resources Department as party/respondent No.1 during the course of the day. No objection from other side. In view of the above, the petitioners are permitted to amend the original cause title of the writ petition during the course of the day. With the consent of learned counsel appearing for the parties, the petition is heard finally. Order passed separately. Sd/- Judge Prashant Kumar Mishra	
Ashu		

