

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPL No. 98 of 2016

1. State Of Chhattisgarh Through : The Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, Naya Raipur (Chhattisgarh)

(The Petitioner No. 1 Was Not A Party Before The Learned Labour Court But Has Been Impleaded As Petitioner No. 1 In The Instant Petition As The Proper Course Is To Implead The State Government Through The Secretary Of The Concerned Department)

2. Executive Engineer, Water Resources Division, Kawardha, District- Kawardha (Chhattisgarh)

---- Petitioner

Versus

1. Rajendra Kumar Shukla R/o G 5/19, Old Collectorate Colony, Kawardha, District- Kabirdham (Chhattisgarh)..... (Defendant)
2. The Appellate Authority, Under The Payments Of Gratuity Act, 1972/Deputy Labour Commissioner, Office Of The Commissioner, Labour, Indrawati Bhawan, Naya Raipur (Chhattisgarh)
3. The Controlling Authority, Under The Payments Of Gratuity Act, 1972/labour Officer, Kawardha, District- Kabirdham (Chhattisgarh)

---- Respondent

For Petitioners/State	Shri Shashank Thakur, GA
For Respondents	None

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

22/04/2016

1. This writ petition under Article 226 of the Constitution of India has been preferred by the State of Chhattisgarh to assail the order passed by the appellate authority under the Payment of Gratuity Act, 1972 (for short 'the Act, 1972'), whereby the appeal preferred by the petitioners has been dismissed on the ground of limitation.
2. The controlling authority under the Act, 1972 allowed the respondent/workmen's claim for payment of gratuity by including the services rendered by him in the capacity of daily wager for calculation of qualifying service.
3. It is argued by learned counsel for the petitioners/State that the law applicable to the issue arising in the matter has been set at rest by this Court in the matter of **State of Chhattisgarh & Anr. Vs. Netram Sahu & Anr. (WPL No.178/2013, decided on 16-12-13)**; affirmed by the Division Bench in WA No. 240/14 (**Netram Sahu Vs. State of Chhattisgarh & Others, decided on 1-8-2014**). He would further submit that the delay in filing the appeal was properly explained and the appeal was duly preferred by the officer authorized by the Government to prefer the appeal for the cases arising out of the concerned Water Resources Division.
4. In several matters of similar nature bearing WPL Nos.43/2016, 47/2016, 48/2016, 58/2016, 59/2016, 60/2016, 61/2016, 62/2016, 63/2016, 64/2016, 65/2016, 66/2016 etc., this Court has remanded the matter back to the Appellate Authority for deciding the appeals on merits on the ground that the law concerning

payment of gratuity to a daily wager having been settled by the Division Bench of this Court in the matter of **Netram** (supra) and substantial legal issues are raised in the matters. Since the present case is also similar, the impugned order is set aside and the matter is remitted back to the Appellate Authority for deciding the appeal on merits keeping in view the law settled by the Division Bench in **Netram** (supra).

5. Accordingly, the writ petition is disposed of with a direction to the appellate authority under the Act, 1972 to consider and decide the appeal on its own merits by a speaking order.

Sd/-
Judge

(Prashant Kumar Mishra)

Nirala