

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPL No. 88 of 2016**

1. State Of Chhattisgarh Through Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, Naya Raipur (Chhattisgarh) (Petitioner No. 1 Was Not A Party Before The Learned Appellate Authority And The Learned Labour Court, But Has Been Impleaded As Petitioner No. 1 Herein As It Is Necessary To Implead The State Govt. Through The Secretary Of Concerned Department.)
2. The Executive Engineer, Hasdeo Canal Water Management, Division Janjgir District Janjgir Champa (Chhattisgarh)

---- Petitioners**Versus**

1. Shri Kartik Ram Kashyap S/o Shri Kapil, R/o Village Katanai, P.S. And Tahsil Akaltara , District Janjgir Champa (Chhattisgarh)
2. The Appellate Authority, Under The Payment Of Gratuity Act, 1972 & Deputy Labour Commissioner, Office Of The Labour Commissioner, Chhattisgarh, Indrawati Bhawan, Naya Raipur (Chhattisgarh)
3. The Controlling Authority, Under The Payment Of Gratuity Act, 1972, Janjgir District Janjgir Champa (Chhattisgarh)

---- Respondents**And****WPL No. 89 Of 2016**

1. State Of Chhattisgarh Through Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, Naya Raipur (Chhattisgarh) (Petitioner No. 1 Was Not A Party Before The Learned Appellate Authority And The Learned Labour Court, But Has Been Impleaded As Petitioner No. 1 Herein As It Is Necessary To Implead The State Govt. Through The Secretary Of Concerned Department.)
2. The Executive Engineer, Hasdeo Canal Water Management, Division Janjgir District Janjgir Champa (Chhattisgarh)

---- Petitioners**Vs**

1. Suruj Ram Yadav S/o. Mahettar Yadav, R/o Village Khisora, Post Akaltara P.S. And Tahsil Akaltara, District Janjgir Champa (Chhattisgarh)
2. The Appellate Authority, Under The Payment Of Gratuity Act, 1972 &

Deputy Labour Commissioner, Office Of The Labour Commissioner,
Chhattisgarh, Indrawati Bhawan, Naya Raipur (Chhattisgarh)

3. The Controlling Authority, Under The Payment Of Gratuity Act, 1972 & Assistant Labour Commissioner, Janjgir District Janjgir Champa (Chhattisgarh)

---- Respondents

For Petitioners/State : Shri Vinod Deshmukh, Dy. GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

11/04/2016

1. These writ petitions under Article 226/227 of the Constitution of India have been preferred by the State of Chhattisgarh to assail the orders passed by the appellate authority under the Payment of Gratuity Act, 1972 (for short 'the Act, 1972'), whereby the appeals preferred by the petitioners have been dismissed on the ground of limitation.
2. The controlling authority under the Act, 1972 allowed the respondents/workmen's claim for payment of gratuity by including the services rendered by them 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 appeals was properly explained and the appeals were 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. Having heard learned counsel for the parties, this Court is of the considered opinion that substantial legal issues having been raised in the appeals, the appellate authority should have considered the appeals on merits. True it is that the application for condonation of delay was not properly drafted yet, since the issue concerns large number of employees and the Government's financial stakes are also involved and moreover, this High Court has already decided the issue pertaining to a daily wage's entitlement to gratuity, the delay in filing the appeals should have been condoned.
5. Since the appeals have not been decided on merits nor the law settled by the Division Bench of this Court in the matter of **Netram (supra)** has been adverted to by the appellate authority, the matter deserves to be remitted back to the appellate authority for consideration on merits.
6. Accordingly, both the writ petitions are disposed of with a direction to the appellate authority under the Act, 1972 to consider and decide the appeals on its own merits by a speaking order.

Sd/-

Judge
(**Prashant Kumar Mishra**)