

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.165 of 2016

=====

The General Manager (Region) Food Corporation Of India Regional Office,
Arunahcal Building , EXhibition Road, Patna-800 1001.

.... Petitioner

Versus

1. The Union of India , through the Secretary, Ministry of Labour & Employment
,New Delhi.
2. The Regional Labour Commissioner(Central) Patna, Cum-Appellate Authority
Under the Payment of Gratuity Act 1972, Mauryalok Complex, 2nd Floor,
Patna-800 001
3. The Assistant Labour Commissioner(Central)-cum - Controlling Authority
under the Payment of Gratuity Act 1972, Mauryalok Complex, 2nd Floor,
Patna-800 001
4. Shri Ganesh Ram Resident of Village & P.O- Sisahani, Via- Pakaridayal
,District East Champaran,Pin-845 428 (Bihar)

.... Respondents

=====

Appearance :

For the Petitioner/s	Mr. P. K. Verma, Sr. Advocate Mr. Suman Kumar Jha, Advocate Mr. Dr.Mankeshwar Tiwari, Advocate
For the Respondent/s	: Mr. S.D Sanjay (ADDL. SOC. GEN.)
For respondent no. 4	Mr. Nirmal Kumar, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 29-11-2017

This writ petition has been filed by the petitioner for
the following reliefs:-

- (i) For quashing the order dated 26.05.2015
passed in Appeal Case No.36/12/2015-
Appeal/RLC, by the Appellate Authority under
the Payment of Gratuity Act, 1972 and the
Regional Labour Commissioner (Central), Patna



(Annexure-5) whereby he has dismissed the appeal filed by the management of the Food Corporation of India (FCI) under Section 7(7) of the Payment of Gratuity Act, 1972 read with Rule 18 of the Payment of Gratuity (Central) Rules, 1972 against the order dated 03/04.12.2013 of the Assistant Labour Commissioner (Central)-cum-Controlling Authority under the payment of Gratuity Act, 1972.

(ii) For quashing the order dated 03/04.12.2013 passed by the Assistant Labour Commissioner (Central), Patna-cum-Controlling Authority under the payment of Gratuity Act, 1972 in file No. 48/17/2013/ALC.II (Annexure-3) whereby the writ petitioner has been directed for making the payment of gratuity with interest amounting to Rs.09,96,000/-(Rs.8,91,894/-+ Rs.01,04,106/-) to the respondent no. 4, irrespective of the fact that he had been found guilty of the charges of grave misconduct and for causing huge loss to the Corporation in departmental/ disciplinary proceeding and penalty of “compulsory retirement from services of the Corporation with token recovery of Rs.10(Ten) lacs in lump sum from admissible terminal dues including gratuity to recoup part of the losses suffered by the Corporation” has been passed by the competent Disciplinary Authority.



2. The Appellate Authority dismissed Appeal Case No.36/12/2015-Appeal/RLC filed by the petitioner vide order dated 26.05.2015 on the ground that the appellant failed to comply with the mandatory provision prescribed under sub-section (7) of Section 7 of the Payment of Gratuity Act, 1972 and did not deposit the amount of gratuity with interest as directed by the Controlling Authority.

3. Mr. P. K. Verma, learned Senior Advocate appearing for the petitioner submitted that the Appellate Authority erred in law in dismissing the appeal without adjudicating the issues and points raised by the appellant in appeal. He submitted that by passing the impugned order dated 26.06.2015, the Appellate Authority has virtually deprived and denied the appellant from his right of statutory appeal provided under sub-section (7) of Section 7 of the Payment of Gratuity Act. According to him, the impugned order is bad in law, as the same has been passed without first considering and deciding the exemption petition from deposit filed before it along with the appeal.

4. The issues and points raised by the petitioner in writ petition are exactly the same as raised in the matter of **the General Manager (Region), Food Corporation of India, Regional Office, Patna vs. The Union of India & Ors. (CWJC No. 8619 of 2016),**



which has already been decided by this Court vide judgment dated 12.05.2017.

5. In that view of the matter, for the reasons assigned in the aforestated case, vide judgment dated 12.05.2017, the writ petition is dismissed.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01.12.2017
Transmission Date	NA

