

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1751 of 2008

M.K. Thapar S/o. Late B.L.Thapar, R/o. B/7, Anmol Apartment
Kadwi Chowk Nagpur (Maharashtra) Presently R/o. A 104, Trinity
Tower, DLF City, Phase V Gurgaon (Haryana) 122002.

---- Petitioner

Versus

1. Coal India Limited Through its Chairman-Cum-Managing Director,
10, N.S. Road, Kolkata (WB)
2. South Eastern Coalfields Limited Through Its Chairman-Cum-
Managing Director, seepat Road, Bilaspur (C.G)
3. Appellate Authority Under The Payment Of Gratuity Act/ Regional
Labour Commissioner (Central) L-7, Sector -1 Avanti Vihar, Raipur
(C.G)
4. Controlling Authority Under The Payment Of Gratuity Act,/ Asstt.
Labour Commissioner (Central), Near Torwa Chowk, Bilaspur
(C.G)

---- Respondents

For Petitioner	:	Mr. Gary Mukhopadhyay, Advocate.
For Respondents No.1 & 2:	:	Mr. Vinod Deshmukh, Advocate
For respondent No.3	:	Mr. Rajkumar Gupta, Advocate on behalf of Mr. H.S. Ahluwalia, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

14/07/2017

Heard.

1. With the consent of the parties, the matter is heard finally.
2. The short issue arising for consideration in this petition is as to whether the petitioner is entitled to interest on the amount of gratuity till the date of actual release in his favour after dismissal of appeal by the appellate authority.
3. The factual matrix giving rise to this petition are in narrow encompass.

4. The petitioner was the employee of the respondent employer. Upon retirement on 31.05.2006, the gratuity which was payable to the petitioner under the Payment of the Gratuity Act was directed to be paid by order dated 08.01.2007 of the Controlling authority. The total amount payable to the petitioner as directed by the Controlling Authority was Rs.3,50,000/- at the rate of 10% interest payable with effect from 01.06.2006. The order of controlling authority was, however, subjected to challenge by the respondent employer before the Chief Labour Commissioner, Central (appellate authority). On 14.06.2007, it was recorded before the appellate authority that with the consent of the party, the money deposited by the employer-appellant be kept on fixed deposit in any nationalized bank. The appeal was finally dismissed on 13.08.2017. Finally the petitioner was paid Rs.3,75,315/- on 31.01.2008.

5. The claim of the petitioner is that the petitioner was entitled to interest at the rate of 10% till 31.01.2008.

6. Learned counsel for the petitioner places reliance on the order dated 08.10.2010 by this Court in WPS 6439 of 2009 (K.K. Singh Vs. South Eastern Coalfields Limited and others) to submit that in a situation like this where the amount of gratuity could not be paid due to remedy taken by the employer against the order of controlling authority, the employer is to be liable to pay interest on delayed payment.

7. On the other hand, learned counsel for the respondents submits that they had deposited the amount before the controlling authority along with the interest at the rate of 10%. Thereafter, if the amount was not released in favour of the petitioner by the order of the appellate authority or a decision was taken to get the amount deposited under fixed deposit in the nationalized bank, it could not be said to be a case of delay in payment on account of appeal preferred by the respondents because there was no interim order as such. Therefore, the aforesaid decision in the case of K.K. Singh (supra), it is submitted, is distinguishable on facts.

8. In order to find out as to why the amount deposited by the respondents before the controlling authority was not released in favour of the petitioner during the pendency of appeal before the appellate

authority, this Court summoned records from the appellate authority. Copies of memo of appeal, order-sheets, office notices and the final order passed in appeal, have been sent to this Court. Amongst various things, I find that when the case was listed before the appellant authority on 14.06.2007, in view of the submissions and agreement between the parties, the money was directed to be deposited in a fixed deposit in any nationalized bank.

9. Vide order dated 13.08.2007, the appeal was dismissed affirming the order passed by the controlling authority.

10. It would therefore be clear that on the request of the respondents the amount of gratuity which was actually deposited before the controlling authority was not paid to the petitioner. Though it is said that the amount was directed to be deposited under fixed deposit in nationalized bank, learned counsel for the petitioner submits that he only received what was deposited by the respondent with the controlling authority, therefore, in these circumstances, the aforesaid decision of this Court in the case of K.K. Singh (supra) is squarely applicable and obliges the respondent employer to pay interest on the amount at the rate of 10% up to 13.08.2007. Let the amount be worked out and paid by the respondent to the petitioner within 60 days from the date of receipt of copy of this order.

11. The petition is accordingly allowed.

Sd/-

(Manindra Mohan Shrivastava)
J U D G E