

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (227) No. 196 of 2009**

The Chief Executive Officer, District Cooperative Central Bank Ltd., Ambikapur, District Surguja (C.G.) (Respondent before Appellate Authority)

---- **Petitioner****Versus**

1. Ganga Prasad Gupta, S/o Kallu Prasad Gupta, Retired Samiti Prabandhank, R/o In front of Nagar Palika, Chandiya Road, Umaria (M.P.)
2. The Appellate Authority under Payment of Gratuity Act, 1972 Cum Deputy Labour Commissioner, Office of Labour Commissioner Chhattisgarh, Raipur
3. The Controlling Authority under Payment of Gratuity Act, 1972 Cum Labour Officer, Office Ambikapur, District Surguja (C.G.)

---- **Respondents**

For Petitioner : Mr. Rakesh Pandey, Advocate.
For Respondent/State: Mr. Ashish Surana, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****07/12/2017**

(1) The respondent No.1/employee was compulsory retired on 28.12.2000, but his gratuity was withheld by the petitioner-Bank leading to filing of application for payment of gratuity before the Controlling Authority. The Controlling Authority, by its order dated 25.02.2008, directed the payment of gratuity amounting to Rs. 1,06,996/- along with 10% interest to respondent No.1, which was duly affirmed by the appellate authority under the Payment of Gratuity Act., against which instant writ petition under Article 227 of the Constitution of India has been filed questioning the same.

(3) Learned counsel for the petitioner would submit that the impugned order passed by controlling Authority as affirmed by the appellate authority is bad is unsustainable in law, which is liable to be set aside.

(4) Per contra, counsel for the State would support the impugned order.

(5) I have heard learned counsel appearing for the parties, considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.

(6) Admittedly, the respondent No.1 was compulsory retired and he was not terminated from the services; and as per Section 4(6) of the Payment of Gratuity Act, 1972 (for short "Act, 1972"), gratuity of an employee, whose services have been terminated, shall be forfeited to the extent of the loss so caused.

(7) Undisputedly, the services of the respondent No.1 was not terminated and, therefore, as per provisions contained in Section 4(6) of the Act, 1972, both the courts below are justified in directing payment of gratuity to the respondent No.1/employee {See **Jashbir Singh Vs. Punjab & Sind Bank and others**¹}

(8) In view of above above legal proposition, I do not find any merit in the instant writ petition. Accordingly, the writ petition fails and is hereby dismissed. No cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

¹(2007) 1 SCC 566

