

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (L) No.5373 of 2011**

Shyamdas, aged about 61 years, S/o Tangu Village Sumedha P.O.
Bamkimongra, District Korba (CG).

---- Petitioner**Versus**

1. Sub Area Manager, Banki Colliery P.O. Bamkimongra, District Korba (CG).
2. Appellate Authority under the Payment of Gratuity Act/Regional Labour Commissioner (Central) D-6, Adarsh Society, Sector-1, Avanti Vihar, Raipur (CG).
3. Controlling Authority under the Payment of Gratuity Act/Assistant Labour Commissioner (Central) Main Road, Torwa, Bilaspur (CG).

---- Respondents

For Petitioner : Mr. Gary Mukhopadhyay, Advocate.
For Respondents : Mr. Vinod Deshmukh, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

11/04/2017

(1) The petitioner's application for grant of gratuity has not been decided by the controlling authority under the Payment of Gratuity Act, 1972 on its own merit and it has been held that since the petitioner has been convicted for the offence under Sections 148, 326, 323 read with Section 149 of the Indian Penal Code and his revision is pending consideration before this Court, the application will be decided finally after disposal of criminal case which has been upheld by the Appellate Authority.

(2) Learned counsel appearing for the petitioner would submit that application for grant of gratuity has to be decided on its own merit. He would further submit that his conviction has already been suspended by the Appellate Court, therefore, the Controlling Authority be directed to dispose of the petitioner's application for grant of gratuity on its own merit.

(3) On the other hand, learned counsel for the respondents-SECL would oppose the prayer.

(4) Admittedly, in Criminal Revision No.343/2004, order of conviction of the petitioner has been suspended by this Court on 30.03.2005, therefore, the impugned order is hereby quashed. The matter is remitted to the Controlling Authority for deciding the petitioner's case afresh. The Controlling Authority is directed to take appropriate steps for consideration of petitioner's application for grant of gratuity in accordance with law in view of the fact that the order of conviction of the petitioner has already been suspended by this Court. No order as to cost.

Sd/-

(Sanjay K. Agrawal)
Judge

L/-