

HIGH COURT OF CHHATTISGARH, BILASPUR**WA No. 135 of 2017**

- Smt. Vijay Laxmi Shukla W/o Late Rajendra Kumar Shukla, Aged About 61 Years R/o G 5/19, Old Collectorate Colony Kawardha, P. S. Kawardha, District Kabirdham (Chhattisgarh)

---- Appellant**Versus**

1. State of Chhattisgarh Through Secretary Water Resources Department Mahanadi Bhawan, Mantralaya Naya Raipur, District Raipur (Chhattisgarh).
2. Executive Engineer, Water Resources Division, Kawardha, District- Kawardha (Chhattisgarh)
3. Appellate Authority, Under The Payments of Gratuity Act, 1972/Deputy Labour Commissioner, Office of the Commissioner, Labour, Indrawati Bhawan, Naya Raipur (Chhattisgarh)
4. Controlling Authority, Under The Payments of Gratuity Act, 1972/ Labour Officer, Kawardha, District- Kabirdham (Chhattisgarh)

---- Respondents

For Appellant	:	Shri K.P.S. Gandhi, Advocate.
For Respondents/State	:	Shri B. Gopa Kumar, Dy. Advocate General

Hon'ble Thottathil B. Radhakrishnan, Chief Justice**Hon'ble Shri Justice P. Sam Koshy****Judgment on Board****Per Thottathil B. Radhakrishnan, Chief Justice****11.04.2017**

1. The appeal is admitted for hearing.
2. Learned Dy. Advocate General takes notice on behalf of the respondents.
3. Finally heard on the consent of learned counsel for the parties.
4. This appeal is against the judgment of the learned Single Judge interfering with the decision rendered under the Payment of Gratuity Act, 1972.

5. The fact of the matter remains that the writ petition before the learned Single Judge was instituted in 2016 by the State of Chhattisgarh while the respondent in the writ petition, who is stated to be husband of the Appellant is shown to have died on 01.08.2015, going by Annexure – A/2, death certificate, issued from the District Hospital from where he died. Obviously, the writ petition having been instituted with a dead person as respondent, the same was not eligible to be entertained. It is not a case where there could have been impleadment after institution. All that the State could do is to seek remedies in accordance with law, if so advised.
6. For the aforesaid reasons, having held that the impugned order is *non-est*, the writ appeal is allowed vacating the impugned judgment issued in the writ petition and leaving the Respondent/State with liberty to pursue remedies as may be available, in accordance with law, as against the decision impugned in the writ petition from which this appeal arises.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge