

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (L) No. 112 of 2017

Chief Executive Officer Zila Sahakari Kendriya Bank Maryadit Bilaspur
(Chhattisgarh) Head Office G. E. Road Nehru Chowk Bilaspur District Bilaspur
(Chhattisgarh).

---- Petitioner

Versus

1. Shri Samaylal Yadav S/o Late Shri Jawahar Lal Yadav, R/o Village And Post Rasota, Tahsil Pamgarh, District Janjgir Champa, Chhattisgarh.
2. Assistant Labour Commissioner, Office Of The Controlling Authority Of Payment Of Gratuity Act 1972, Bilaspur, Chhattisgarh.
3. Deputy Labour Commissioner, Office Of The Appellate Authority Under The Payment Of Gratuity Act 1972, Indrawati Bhawan Office Of The Labour Commissioner Naya Raipur, Chhattisgarh.

Respondents

For Petitioner : Shri Vikash Pandey, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

13.06.2017

1. The present petition has been preferred challenging the order dated 17.3.2017 passed by the appellate authority under the Payment of Gratuity Act, 1972, State of Chhattisgarh in Appeal Case Nos. 26/P.G.A./2016 and 27/P.G.A./2016.
2. The facts of the case in brief is that Respondent No.1 was working as Branch Manager in the District Cooperative Bank, Bilaspur. He superannuated from the services w.e.f. 31.1.2012. The Petitioner's establishment did not release

the payment of gratuity of Respondent No.1 on account of an alleged pending departmental proceedings. Subsequently, the Petitioner was filed a case before the controlling authority under the Payment of Gratuity Act, 1972 i.e. Assistant Labour Commissioner, Bilaspur, where the case was registered as Case No.08/P.G.A./2015. The controlling authority taking into consideration the pleadings, which were brought into before the controlling authority, decided the case on 30.3.2016 and it was held that Respondent No.1 is entitled for gratuity of an amount of Rs.6,22,004/-, of which, since there was outstanding loan against Respondent No.1 to the tune of Rs.1,53,352/-, he was entitled for the balance amount of Rs.4,68,652/- and which was ordered to be paid. This order of the controlling authority was challenged by Respondent No.1 as well as by the Petitioner before the appellate authority, where the case was registered as Appeal Case Nos. 26/P.G.A./2016 and 27/P.G.A./2016, respectively.

3. The appellate authority taking into consideration the entire facts and circumstances of the case, reached to the conclusion that the deduction in respect of an outstanding loan as ordered by the controlling authority is not proper in view of the protection, that is available to an employee under Section 13 of the Payment of Gratuity Act, 1972, as such, the appellate authority reached to the conclusion that Respondent No.1 shall be entitled for the entire amount of gratuity to the tune of Rs.6,22,004/-.
4. It was further held by the appellate authority that so far as the pending departmental enquiry is concerned, the District Cooperative Bank has not reached to any conclusion, nor was Respondent No.1 at any point of time punished. It would also have to be considered that there was no order of punishment or any misconduct established against Respondent No.1. Under such circumstances, the Petitioner cannot be denied the payment of gratuity what he was otherwise entitled for on his superannuation.

5. Undisputedly, Respondent No.1 superannuated from the services of the Petitioner w.e.f. 31.1.2012. He was entitled for the receipt of payment of gratuity on the date of retirement i.e. 31.1.2012 itself. The said gratuity amount, till date, has not been released by the Petitioner further as per the provisions of sub-section (3A) of Section 7 of the Payment of Gratuity Act, 1972, the Respondent No.1 shall be entitled for interest on the gratuity amount.
6. If we look into the order passed by the appellate authority what is clearly reflected is that the appellate authority has taken into consideration the entire contentions which the District Cooperative Bank has raised in the appeal and have reached to the conclusion that Respondent No.1 was in fact legally entitled for the gratuity amount, which has not been released for more than 5½ years and for the said period also, he is entitled for the interest as well and accordingly ordered for payment of interest on the entire payment of gratuity i.e. Rs.6.22.004/- which calculated by the appellate authority comes to Rs.3,18,670/-. In addition, the appellate authority has also quantified that Respondent No.1-employee shall also be entitled for the interest for the subsequent period after the order passed by the appellate authority also. The said calculation is also on the total amount of gratuity payable to Respondent No.1.
7. So far as the exercise of writ jurisdiction is concerned, the order passed by the appellate authority being a quasi judicial order more particularly, when it was decided by two of the forums, the scope of writ jurisdiction gets reduced substantially. All that, this Court has to look into in exercise of its supervisory writ jurisdiction is whether the appellate authority under the Payment of

Gratuity Act, 1972 has conducted itself in accordance with the provisions of Payment of Gratuity Act, 1972 or not.

8. In addition, the writ Court may also look into the aspect whether there is any perversity on the part of the authorities concerned in reaching to the conclusion under the facts and situations as narrated in the preceding paragraphs and on perusal of the order passed by the appellate authority, this Court does not find any perversity in the order as such, neither it is pleaded in the petition nor any perversity in the order of the appellate authority could be found. The finding arrived at by the two authorities are pure finding of fact which are not disputed, particularly, the fact that Respondent No.1 superannuated on 31.1.2012 and till date, he has not received the amount of gratuity, which he was otherwise entitled for 5½ years back. Further, it is also not in dispute that the amount of gratuity payable to Respondent No.1 was on the basis of calculation made on the information provided by the employer so far as the salary of Respondent No.1 is concerned, which is again a finding of fact. Just because another opinion can be reached, it would not be a ground to interfere with the finding of fact.
9. This Court in exercise of its writ jurisdiction would not interfere with the finding of fact given by the two authorities unless there is any question of law involved in the said case.
10. For the foregoing reasons, this Court does not find any merit in the writ petition. The same is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Vacation Judge