

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No.26371 of 2016

O R D E R:

Heard counsel for the petitioner and Sri M.Srinivasa Rao, Standing Counsel for 2nd respondent.

2. Petitioner was employed in the 2nd respondent-Corporation and retired there from on 31.05.2010. He has filed this Writ Petition contending that respondents have not paid retirement benefits i.e., gratuity and leave encashment.

3. Counter affidavit is filed by the 2nd respondent stating that certain irregularities were committed by the petitioner when he was in service, that a criminal case Cr.No.54 of 2016 was registered against the petitioner, and that as per the rules laid down in the 2nd respondent-Corporation, terminal benefits will not be paid where disciplinary proceedings and criminal prosecution are pending and only Group Insurance and EPF amounts will be paid.

4. No specific rule on the aspect is quoted by the respondents. The Standing Counsel also could not draw the attention of the Court to any applicable rule being followed by the 2nd respondent in this regard. It is also not the case of the respondents that any disciplinary proceedings can be conducted against the petitioner after he has retired from service as per the services rules of the 2nd respondent-

Corporation. Moreover, the Supreme Court has held in ***Jaswant Singh Gill v. Bharat Coking Coal Ltd., and others***¹ that the provisions of the Payment of Gratuity Act, 1972 would prevail over any service rules which bars payment of gratuity against an employee.

5. This legal position is not disputed by Sri M.Srinivasa Rao, Standing Counsel for 2nd respondent.

6. Therefore, this Writ Petition is allowed; the 2nd respondent is directed to release gratuity and leave encashment benefits, to which the petitioner is entitled, within a period of six (06) weeks from the date of receipt of a copy of this order. In view of the delay in payment of gratuity and leave encashment amount, 2nd respondent shall pay the same with interest @ 9% per annum from the date on which they fell due till the date of payment. There shall be no order as to costs.

7. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

12th July, 2017.
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¹ 2007(1) SCC 663