

**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Petition (L) No. 1475 of 2009**

Chief Engineer (Generation), Chhattisgarh State Electricity Board Korba West  
(now Chhattisgarh State Power Generation Company, a successor of CSEB),  
Distt. Korba (C.G.)

**----Petitioner**

**Versus**

1. Shri Shafique Ahemed, S/o Shri Mehaboob Ali, Aged about 62 years, Qr. No. EWS-228, Maharana Pratap Nagar, Korba (C.G.)
2. Appellate Authority under Payment of Gratuity Act, 1972-cum-Dy. Labour Commissioner, Office of the Labour Commissioner, Raipur (C.G.)
3. Controlling Authority, Payment of Gratutiy Act, 1972, Office of the Asstt. Labour Commissioner, Korba (C.G.)

**---- Respondents.**

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For Petitioner : Shri Vinod Deshmukh, Advocate.

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**Hon'ble Shri Justice Sanjay K. Agrawal**

**Order On Board**

**18/06/2018**

(1) Learned counsel appearing for the petitioner would submit that the petitioner has raised a specific ground that provisions of Payment of Gratuity Act, 1972 is not applicable to the petitioner- Board before the Controlling Authority but the same has not been considered by the said Authority while deciding the matter. The petitioner preferred appeal thereagainst before the appellate authority. The Appellate Authority has also dismissed the appeal by affirming the order of Controlling authority.

(2) None appeared on behalf of the respondents.

(3) I have heard learned counsel appearing for the petitioner.

(4) It is true that the petitioner has raised a specific ground that provisions of Payment of Gratuity Act, 1972 is not applicable to the petitioner – Board but that plea has been adverted or addressed by the appellate authority while deciding the appeal though contention has been recorded and straightway the appeal has been dismissed, which is impermissible in law. Therefore, impugned order is set aside. The matter is remitted to the appellate authority under the Payment of Gratuity Act, 1972 to consider and decide the plea raised by the petitioner herein strictly in accordance with law after affording due opportunity of hearing to the affected parties within a period of four months from the date of receipt of certified copy of this order.

(5) The writ petition is allowed to the extent indicated hereinabove.

Sd/-

**(Sanjay K. Agrawal)**  
Judge

D/-