

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPL NO.287 of 2014**

Ramgopal Vaishnav S/o Bahadurdas Vaishnav, aged about 62 years, R/o Kargikhurd, Post-Kargikhurd, Kota, Police Station-Kota, Distt. Bilaspur (CG)

----Petitioner**Versus**

1. State of C.G. Through-Secretary, Water Resources Dept. Mahanadi Bhavan, Naya Mantralay, Naya Raipur (CG)
2. Chief Engineer Hasdeo Kachhar Water Resources Division Distt.- Bilaspur (CG)
3. Appellate Authority Cum-Dy.Labour Commissioner, Under Payment of Gratuity Act, Office of Labour Commissioner Indravati Bhavan, Naya Raipur, Distt. Raipur (cG)

---- Respondents

 For Petitioner : Mr.K.P.S.Gandhi, Advocate
 For Respondents No.1 and 2 : Mr.Gary Mukhopadhyay, G.A.

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

19/07/2018

1. Learned counsel for the petitioner would submit that the Controlling Authority has granted gratuity in favour of the petitioner, which was set aside by the Appellate Authority under Payment of Gratuity Act relying upon a decision of this Court in WPL No.178/2013 (State of Chhattisgarh and others v. Netram Sahu and others), which was finally set aside by the Supreme Court in **Netram Sahu v. State of Chhattisgarh and another**¹.
2. Learned Government Advocate for respondents No.1 and 2 would submit that decision passed by this Court in WPL No.178/2013 has been reversed by the Supreme Court.

¹ AIR 2018 SC 1545

3. I have heard learned counsel for the parties and considered their rival submissions made hereinabove and also gone through the records with utmost circumspection.

4. In **Netram Sahu** (supra) the Supreme Court has held as under:-

“18. It was indeed the State who took 22 years to regularize the service of the appellant and went on taking work from the appellant on payment of a meager salary of Rs.2776/- per month for 22 long years uninterruptedly and only in the last three years, the State started paying a salary of Rs.11,107/- per month to the appellant. Having regularized the services of the appellant, the State had no justifiable reason to deny the benefit of gratuity to the appellant which was his statutory right under the Act. It being a welfare legislation meant for the benefit of the employees, who serve their employer for a long time, it is the duty of the State to voluntarily pay the gratuity amount to the appellant rather than to force the employee to approach the Court to get his genuine claim.

19. In view of the foregoing discussion, we cannot agree with the reasoning and the conclusion arrived at by the High Court which is legally unsustainable. It is really unfortunate that the genuine claim of the appellant was being denied by the State at every stage of the proceedings up to this Court and dragged him in fruitless litigation for all these years.”

5. Following the law laid-down by the Supreme Court in **Netram Sahu** (supra), the impugned order is set aside. The matter is remitted to the Appellate Authority to consider a fresh and to pass a reasoned and speaking order in accordance with law on merits within a period of one month from the date of receipt/production of certified copy of this order.

6. The writ petition is allowed to the extent indicated hereinabove.
No cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-