

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (L) No. 5316 of 2010**

Trilochan Kumar Bhukta, Aged about 41 years, S/o B.C. Bhukta, R/o
Q. No.1/B/247 At and PO: Bishrampur, Distt: Sarguja (C.G.) PIN 497226

---- Petitioner

Versus

1. Sub Area Manager (RGK), SECL Bishrampur Area, PO: Bishrampur, Distt: Sarguja (C.G.) PIN 497226
2. Appellate Authority Under the Payment of Gratuity Act/ Regional Labour Commissioner (Central) L-7, Avanti Vihar, Sector 1 (Extension), Raipur (C.G.)

---- Respondents

For Petitioner	:	Mr. Gary Mukhopadhyaya, Advocate
For Respondents	:	Mr. Vinod Deshmukh, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board**

25/04/2018

(1) Petitioner's father retired from the South Eastern Coalfields Limited on 9th February, 1999. He was not paid interest on gratuity amount. He filed an application before the Controlling Authority for payment of interest on the gratuity amount, that was rejected and when the appeal was preferred against the order of Controlling Authority, the appellate Authority maintained the order of Controlling Authority, however, penal rent was directed to be deducted from the salary of the petitioner against retention of the quarter by petitioner's father; which was allotted to his father and ultimately the said quarter was allotted to the petitioner after his father is retired.

(2) Learned counsel appearing for the petitioner would submit that deduction of penal rent is totally unauthorized and bad in law and even if the same quarter is allotted the petitioner, the provisions contained in Payment of Gratuity Act does not give any authority to the appellate authority to give such a direction for deduction of penal rent from the petitioner's salary and, therefore, that cannot be recovered from the salary of the petitioner.

(3) On the other hand, counsel for the respondents would support the impugned order.

(4) It is not in dispute that no penal rent is due against the petitioner and it is due against the father of the petitioner.

(5) In view of above, this Court is of the opinion that no penal rent can be recovered from the petitioner's salary and the order impugned directing recovery of penal rent against the petitioner for his retention in the said quarter, which was earlier allotted to his father and then ultimately allotted the same to the petitioner, is liable to be set aside.

(6) In view of above, order dated 5.7.2010 directing deduction of the penal rent and all other charges applicable to water & electricity consumed by petitioner's father from the salary of the petitioner is set aside. Now, the respondents- authority are directed to refund the amount of Rs. 7,471/- to the petitioner along with interest @ 8% per annum from the date of deduction till the date of its actual payment.

(7) Accordingly, the writ petition is allowed to the extent indicated hereinabove.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-