

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (L) No.288 of 2014

Vinod Kumar Sharma, S/o Mochan Prasad Sharma, age about 64 years, Village & Post Karnoad, Thana Bamnidih, Teh. Champa, Distt. Janjgir-Champa (C.G.)

---- Petitioner

Versus

1. State of C.G. Through Secretary, Water Resources Dept., Mahanadi Bhawan, Naya Mantralay, Naya Raipur (C.G.)
2. Executive Engineer, Water Resources Survey & Barrage Construction Division No.2, Champa, Distt. Janjgir-Champa (C.G.)
3. Appellate Authority-cum-Dy. Labour Commissioner, Under Payment of Gratuity Act, Office of Labour Commissioner, Indravati Bhavan, Naya Raipur, Distt. Raipur (C.G.)

---- Respondents

For Petitioner: Mr. K.P.S. Gandhi, Advocate.

For Respondents/State: Mr. Avinash Singh, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

13/07/2018

1. Heard.
2. The controlling authority passed an order on 26-4-2013 in favour of the petitioner granting gratuity which was set aside by the Labour Court on the basis of decision rendered by this Court in the matter of State of Chhattisgarh and another v. Netram Sahu and another {W.P. (L)No.178/2013}, decided on 16-12-2013.
3. Learned counsel for the petitioner submits that the decision of this Court in W.P.(L)No.178/2013 has been set aside by the Supreme Court in the matter of Netram Sahu v. State of Chhattisgarh and another¹.
4. Learned State counsel would oppose the writ petition.

¹ AIR 2018 SC 1545

5. The orders passed by this Court in W.P.(L)No.178/2013 and W.A. No.240/2014 (Netram Sahu v. State of Chhattisgarh and others) have been set aside by the Supreme Court in Netram Sahu (supra) by holding 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.”

6. In view of the above, the impugned order is set aside and the matter is remanded to the appellate authority to consider and dispose of the matter afresh in the light of the decision rendered by the Supreme Court in Netram Sahu (supra).
7. The writ petition is allowed to the extent indicated hereinabove. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge