

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WPL No.2 of 2012**

Shatrughan Lal Sinha S/o Shri Ramadhar Sinha, aged about 59 years,
R/o Subhashpara, Bhanupratappur, Distt.-Kanker (CG)

----Petitioner**Versus**

1. M/s R.V. Thakkar & Co. Bhanupratappur, C/o Smt. Lilawati W/o
Laladhar Kothari R/o Bhanupratappur, Distt. Kanker (CG)
2. Presiding Officer, Labour Court, Jagdalpur (CG)

---- Respondents

 For Petitioner : Mr.S.P.Kale, Advocate
 For Respondent No.1 : None present

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****26/07/2018**

1. Learned counsel for the petitioner would submit that while computing back-wages as per the award of the High Court, the Labour Court has deducted the amount of gratuity i.e. ₹ 19500/- from total wages, which is unsustainable and bad in law in view of definition of wages as defined in Section 2(rr) of the Industrial Disputes Act, 1947 (hereinafter called as "the Act of 1947").
2. None present for respondent No.1 though served.
3. I have learned counsel for the petitioner and perused the impugned order.
4. Definition of wages has been defined under Section 2(rr) of the Act of 1947 which reads as under:-

"2. Definitions.-In this Act, unless there is anything repugnant in the subject or context,-

(rr) "wages" means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, express or implied, were

fulfilled, be payable to a workman in respect of his employment, or of work done in such employment and includes-

(i) such allowances (including dearness allowance) as the workman is for the time being entitled to;

(ii) the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply foodgrains or other articles;

(iii) any travelling concession;

(iv) any commission payable on the promotion of sales or business or both;
but does not include-

(a) any bonus;

(b) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the workman under any law for the time being in force;

(c) any gratuity payable on the termination of his service;"

This definition of wages does not include any gratuity payable on the termination of service.

5. While computing wages the Labour Court ought not to have deducted the amount of gratuity paid to the petitioner. Therefore, the impugned order to that extent is set aside. The petitioner is entitled for said deducted amount. It be paid within four weeks. However, for other allowances or calculation mistake, he is at liberty to make an application before the Labour Court. If such an application is made, that will be considered by the Labour Court within a period of four weeks from its receipt.
6. The writ petition is allowed to the extent indicated hereinabove.
No cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-