

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 541 of 2018**

1. South Eastern Coalfields Limited, Through Its Deputy Regional Manager, Chirmiri Colliery, District Korea Chhattisgarh.
2. Area Manager , S E C L, Chirmiri Underground Mines Colliery District Korea Chhattisgarh.
3. Assistant Manager (HR/P) S E C L , Underground Sub Area Chirmiri, District Korea Chhattisgarh.

---- Petitioners**Versus**

1. Sundershan Prasad S/o Late Shri Bithal Sao Aged About 63 Years Occupation - Retired Mining Heads (S C P A) From Bartunga Colliery, R/o Kothari Colony Ward No. 25 , Chirmiri , Police Station Cirmiri, District : Korea, Chhattisgarh

---- Respondent

For Appellants/SECL : Shri Goutam Khetrapal, Advocate

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Justice Pritinker Diwaker

Order on Board

Per, Ajay Kumar Tripathi, Chief Justice

17.07.2018

1. Heard on I.A. No. 01 of 2018, application for condonation of delay of 89 days in filing the appeal.
2. We are satisfied that sufficient cause has been indicated in the application to condone the delay. I.A. No.01 of 2018 is allowed. Delay in filing the appeal is condoned.
3. Also heard counsel for the Appellant representing South Eastern Coalfields Limited (SECL).
4. The writ application was filed by the private Respondent seeking a direction upon SECL that he be paid his retiral benefits including gratuity, bonus, leave encashment etc. since he had superannuated from the post of Mining Sardar w.e.f. 31.12.2014. The writ application was filed in

the year 2017, since for almost three years, Respondent authorities refused to pay retiral dues on the ground that private Respondent was allotted a quarter which he had not vacated despite his superannuation. That was the reason why gratuity and other benefits had been withheld.

5. The learned Single judge took note of a plethora of decisions keeping in mind the legal provisions under the Gratuity Act and came to the considered opinion that an employer had no right to withheld the gratuity and other retiral dues on the ground that the employee has not vacated the quarter in question.
6. The primary reason being the well settled principle that gratuity is no longer a bounty but it is a constitutional right guaranteed under Article 300A of the Constitution of India.
7. Since the learned Single Judge also found that the Respondent authorities illegally withheld payment of gratuity and other dues therefore a direction was issued to pay interest @ 8% per annum on the amount of gratuity w.e.f. 31.01.2015 till date of payment.
8. In the appeal, counsel for the Appellant basically harps upon the fact that the Court should not have passed an order for payment of interest @ 8% because after all the employee in question is still occupying the quarter illegally and therefore this aspect should have been kept in mind. So far as payments of gratuity and other dues are concerned, the counsel now does not resist or objects to its payment.
9. Since the learned Single Judge has held that withholding of the gratuity was not justified in law and there are series of decisions of Hon'ble

Apex Court to support such a view, therefore, payment of interest on the withheld gratuity from the time it was due till it is paid cannot also be said to be any illegal or irrational order.

10. Counsel for the Appellants submits that the learned Single Judge has relied on a decision rendered in the case of Karnail Singh which was Writ Appeal No.56 of 2017 decided on 17.03.2017 against which an SLP was preferred and stay was granted. But since then SLP has been dismissed, in other words the Division Bench order stands as it is and therefore reliance on the said Division Bench order cannot be said to in any manner erroneous.
11. In view of the fact that the appeal has no merit, the same stands dismissed. Appellants-SECL are directed to settle the post retiral dues with interest within a period of two months. The Respondent-employee is also directed to hand over the official accommodation which has been provided to him no sooner the payment is made by SECL to his credit.
12. The appeal is dismissed with direction as above.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Pritinker Diwaker)
Judge