

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal No. 283 of 2016

- Dhansai Sahu S/o Khanjhar, Aged About 65 Years R/o Khursi, Post Kodwa Dhani, District Mungeli Chhattisgarh

---- Appellant

Versus

1. State of Chhattisgarh Through Its Secretary, Water Resources Department, Mahanadi Bhawan, Naya Raipur Chhattisgarh.
2. The Controlling Authority Under The Payment Of Gratuity Act And Assistant Labour Commissioner, Bilaspur, District Bilaspur Chhattisgarh.
3. The Chief Engineer, Minimata Hasdev Bango Project, District Bilaspur Chhattisgarh.
4. The Sub Divisional Officer, Minimata Bango Canal, Sub Division No. 17, Bilaspur, District Bilaspur Chhattisgarh.

---- Respondents

For Appellant : Shri K.P.S. Gandhi, Advocate

For Respondents-State : Shri Prafull N. Bharat, Additional Advocate General

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

Per, Ajay Kumar Tripathi, Chief Justice

19.09.2018

1. Heard counsel for the Appellant and counsel for the State.
2. The basic question which was considered and decided by the learned Single Judge in his order dated 22.02.2016 is whether a daily-wager who became regularized and having attained the status of a regular Government servant would be permitted to move the Controlling Authority under the Payment of Gratuity Act, 1972; hereinafter referred to as 'the Act, 1972' to demand benefit of payment of gratuity to him for the period he worked as a daily-wager.
3. The learned Single Judge allowed the writ application, set aside the impugned order dated 18.07.2013 passed by the Controlling Authority under the Act,

1972 for the reasons that the said authority was barred or precluded from exercising any power in view of the definition clause of the Act, 1972. The relevant Section is Section 2(e) which reads as under :-

“2. (e) “employee” means any person (other than an apprentice) who is employed for wages, whether the terms of such employment are express or implied, in any kind of work, manual or otherwise, in or in connection with the work of a factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act applies, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity.”

(emphasis supplied)

4. There cannot be any argument that once a daily wager is regularized he becomes a Government servant and thereafter he will be governed by the set of rules in relation to any benefit relating to payment of pension, gratuity etc. of the State Government and not under the Act, 1972.
5. It is under such legal background that the order of the Controlling Authority was set aside and writ application of the State was allowed.
6. There is no infirmity in the order of the learned Single Judge which is required to be interfered with in the appeal.
7. The appeal has no merit. It is dismissed.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge