

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1322 OF 2000

Smt. Anusayabai W/o. Kishanrao Bahadure,
Aged 47 years, Occ. Household,
R/o. Mantrinagar, Latur.

...Petitioner.

Versus

1. The Divisional Assistant (Joint),
Director, Agriculture, (Extn.),
Latur Division, Latur.
2. The Agricultural Labour
Credit and Thrift Society Ltd.,
through its Chairman,
Lokmanya Nagar, Parbhani.
3. The Accounts Officer,
Officer of the
Accountant General II,
Nagpur.

...Respondents.

Advocate for Petitioner : Mr. A.H. Kasliwal.
Advocate for Respondent No.2 : Mr. S.V. Kuptekar
h/f. Mr. V.D. Salunke.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 20th March, 2018

ORAL JUDGMENT :

1. The petitioner is aggrieved by the impugned judgment and order dated 24/12/1999, passed by the Controlling Authority under Section 4 of the Payment of

Gratuity Act, 1972. In fact, this petition was not maintainable in the light of Section 7 (7) of the 1972 Act, by which, any aggrieved person could challenge the order passed by the Controlling Authority under Section 7 (4), before the appellate authority. However, this Court has admitted this petition by order dated 08/01/2002. It is settled law that when a petition is admitted, the objection with regard to its maintainability is not to be taken up.

2. This Court had directed the respondent/employer to deposit an amount of Rs. 60,000/- in this Court vide order dated 18/12/2001. The total claim of the petitioner was Rs. 66,415/- as in the year 1998. On 08/01/2002, while admitting this petition, this Court had permitted the petitioner to withdraw the amount of Rs. 60,000/-.

3. I have heard the submissions of the learned advocates for respective sides.

4. The learned counsel for respondent No. 2/the Agricultural Labour Credit and Thrift Society Limited submits that the petitioner has taken some loan from

the Society and there was an outstanding payment of about Rs. 49,557/- to be recovered from the petitioner.

5. The Controlling Authority has held that the Payment of Gratuity Act, is not applicable to respondent No. 1/employer in the light of Section 1 (3). Respondent No. 1 is the Director of the Department of Agriculture, Latur Division, and which is under the Agriculture Department of the State. The said department engages employees. The husband of the petitioner was engaged as a Clerk in the year 1966 and later on, he was promoted as Tahsildar from 30/10/1966. While on duty on 27/10/1995, the husband of the petitioner died.

6. Respondent No. 1 though served, has not appeared in the matter and has not resisted the claim of the petitioner.

7. I do not find any material before me, so as to conclude that respondent No. 1/the Director of the Department of Agriculture at Latur, would be excluded from the purview of the Gratuity Act.

8. Section 2(f) of the Act defines the employer to

mean any establishment, factory, mine, oil field, plantation, port, railway company or shop. Respondent No. 1 may not be a factory under Section 2 (g) of the Act. However, nothing has been placed before me by the respondents to indicate that respondent No. 1 would not be an employer under Section 2 (f) of the 1972 Act.

9. Considering the above, the impugned order rejecting the P.G. Application No. 02/1999 cannot be sustained.

10. It appears from the impugned order that the Controlling Authority has not dealt with any aspect of deduction of loan amounts from the claim put forth by the petitioner. The petitioner approached the Controlling Authority in the light of the order passed by the Accountant General, Maharashtra-2, by which, the amount of gratuity of Rs. 95,980/- would be subject to the recovery of government dues of Rs. 29,565/- and the remaining amount was to be disbursed by way of gratuity to the petitioner. The said amount is Rs. 66,415/-.

11. The husband of the petitioner has passed away on

27/10/1995. The Gratuity Act provides for payment of gratuity after one month of the severing of relationship. As such, the gratuity amount of Rs. 66,415/- became payable to the petitioner on 27/11/1995, and to round off this period, it could be said that it become payable on 01/12/1995.

12. Considering the above, this petition is allowed. The amount of gratuity of Rs. 66,415/- being payable from 01/12/1995, will attract interest at the rate of 10% from the said date till it was deposited in this Court on 07/01/2002. By order dated 08/01/2002, the petitioner is allowed to withdraw the amount of Rs. 60,000/-. As such, respondent No. 1 shall calculate the interest amount at the rate of 10% per annum from 01/12/1995 till 07/01/2002, on the amount of Rs.66,415/- and pay the said amount to the petitioner herein within 12 weeks from today.

13. Similarly, the amount of Rs. 6,415/- with interest at the rate of 10% from 09/01/2002, till it is actually paid, shall be computed by respondent No. 1 and the said amount will be paid to the petitioner within 12 weeks.

14. Needless to state that this Court has not expressed any opinion as regards the deduction of amount or recovery by respondent No. 2 from the petitioner and it is left to respondent No. 2 to take a decision.

15. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)

S.P.C.