

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22272 of 2014

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1. Bata India Ltd. Bataganj, Digha Patna, through its General Manager/Unit Manager, namely-M. Srinivasa Rao, Son of Mr. Radhe Krishna Rao, resident of White Pillars, Bata India Ltd. Bataganj, Digha, P.S. Digha, Distt. - Patna.
 2. The Personnel Manager, Bata India Ltd., Bataganj, Digha, Patna 800018, namely Rambabu Prasad Son of Shree Uday Prasad, resident of New Bagrahpur, P.S. Jakkanpur, Distt. - Patna – 800001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Labour Resources Department, Vikash Bhawan, New Secretariat, Bailey Road, Patna, Bihar
2. The Labour Commissioner -cum- Appellate Authority, Bihar (under the Payment of Gratuity Act, 1972)
3. The Deputy Labour Commissioner -cum- Controlling Authority, Patna (under the Payment of Gratuity Act, 1972), Labour Resources Department, 20, 21/84 Officer's Flat, New Punaichak, Patna 800 023.
4. Baidyanath Ram Son of Shree Ganauri, resident of village - Tata Colony (Beyapur), P.S. Maner, District – Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	M/s Alok Kumar Sinha and Indrajeet Bhushan, Adv.
For the State	Mr. Ajay Bihari Sinha, SC-8
	Mr. Neeraj Raj, AC to SC-8
For the respondent. no. 4	Mr. Nand Kishore Prasad, Adv.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 28-01-2019

Heard learned counsel for the petitioners and the learned
counsel for the respondents.

2. In the present case, the petitioner is challenging the order dated 3rd April 2014 passed in Gratuity Appeal Case No. 06 of 2012 by the Labour Commissioner-cum-Appellate Authority, Patna and also made a prayer for quashing the order dated 28th April 2012 passed in Gratuity Case No. 48 of 2007.



3. The main issue involved in the present case as to whether the persons, who were employed by the Bata India Limited, were time rated or piece rated as well as incentive will be a part of wages as defined in Section 2(g) of the Gratuity Act. The four identical cases of similar nature have been decided in C.W.J.C. Nos. 18280, 18768, 18254 and 18255 of 2015 and the Court has held that those judgments are based on the judgment passed in C.W.J.C. No.3250 of 2007, dealing with identical issue, the Court has held, they are time rated employees/workman, not piece rated workman and the incentive which used to be given to them is not part of wages as provided under the Payment of Gratuity Act and this Court consistently has taken this view, rejected the claim of aforesaid persons. In this view of the matter the question with respect to status of petitioners, are time rated workman as well as not entitled to extra amount of gratuity on account of payment of incentive, so instead of deciding the case afresh, following the earlier judgment, in the same and identical term, this Court also holds that present petitioners were time rated not piece rated will not be entitled to get the incentive wages added in calculating the amount of gratuity.

4. This order has been passed in presence of the learned counsel for the respondent no. 4 and also in presence of the



learned counsel for the State. Both of them have not disputed the claim of the petitioner that this case is identical to those cases mentioned herein above.

5. In such view of the matter, the orders passed by the Controlling Authority as well as Appellate Authority dated 03.04.2014 and 28.04.2012 (Annexure-1 and 1/1) are quashed and this application is accordingly disposed of. The learned counsel for the petitioner has stated, if the money has not been released then the same may not be released in favour of the workman. In contra, the State counsel submits that the money has already been released, in corroboration annexed the supporting document in the counter affidavit, in such view of the matter, there is no need to pass an order as prayed for by the petitioner.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
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