

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPL No. 23 of 2019

Janakram Sahu S/o Late Shri Ajit Ram Sahu Aged About 64 Years
R/o Village Khargahni Post Lamer Tehsil Kargiroad (Kota) Police
Station Kota District Bilaspur Chhattisgarh.

---- Petitioner

Versus

1. Controlling Authority Under Payment Of Gratuity Act 1972 Assistant Labour Commissioner, District Bilaspur Chhattisgarh.
2. Divisional Forest Officer Forest Division Marwahi, Post Marwahi District : Bilaspur, Chhattisgarh
3. Forest Range Officer, Forest Range Guarella Post Pendra Road District Bilaspur Chhattisgarh.

---Respondents

For Petitioner	:	Mr. S.P. Kale, Advocate
For State	:	Ms. Sunita Jain, G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

19/02/2019

1. The challenge in the present writ petition is to the order Annexure P/1, passed by the Controlling Authority under the Payment of Gratuity Act, dated 10.10.2017. Vide the said order, the Controlling Authority has refused to entertain the application for Payment of Gratuity Act moved by the petitioner on the ground of jurisdiction.
2. Counsel for the petitioner submits that the petitioner at the first instance was appointed as a daily wage employee in the Forest Department way back in July, 1975. He was later on regularized on 29.11.1999. The petitioner retired from service on 30.06.2016.
3. On a query being put to the counsel for the petitioner, whether he has received any gratuity for the regular service that he has

rendered, the counsel for the petitioner expressed that he has no instruction in this regard.

4. Be that as it may, in any case, the claim of the petitioner by the Controlling Authority could not have been rejected at the outset itself. The Rules of 1972 under the Payment of Gratuity Act, Rule 8 specifically envisages certain steps, which are required on an application being filed including issuance of a notice to the employer as also to the employee. In the instant case, no such step under Rule 8 seems to have been undertaken by the Controlling Authority and the order seems to have been passed at the threshold itself. Moreover, the Hon'ble Supreme Court in the recent past in the case of ***“Netram Sahu v. State of Chhattisgarh” reported in 2018(5) SCC 430***, in a judgment decided on 23.03.2018 has held that the services rendered by the employee as a daily wage worker also has to be reckoned for the purpose of Payment of Gratuity Act and thereby affirmed the order of the Controlling Authority and the Appellate Authority granting gratuity to the employee taking into consideration the service rendered as a daily wage worker.
5. Given the aforesaid facts and circumstances of the case, without further entering into the merits of the case, this Court is of the opinion that ends of justice would meet if the impugned order Annexure P/1 is set-aside at this juncture and the matter is remitted back to the Controlling Authority (respondent No.1) for re-adjudication of the case on merits afresh, keeping in view the judgment of the Hon'ble Supreme Court in the case of ***“Netram Sahu”*** (supra) and the other service Rules governing the field.

6. With the aforesaid observations, the present writ petition stands allowed and disposed off.

Sd/-
(P. Sam Koshy)
Judge

Ved