

HIGH COURT OF CHHATTISGARH AT BILASPURWPL No. 22 of 2019

Sub Area Manager Shri Prabhakar Maduli, South East Coalfield Limited, Rajgamar Colliery, Korba Area, P.O. Rajgamar, Colliery, District- Korba, Chhattisgarh.

---Petitioner

Versus

1. State Of Chhattisgarh, Through Collector Korba, District- Korba, Chhattisgarh.
2. Office Of The Tahsildar, Through Tahsildar, Korba, District- Korba, Chhattisgarh.
3. Shri Gend Ram S/o Late Chinta Ram, Ex - Tyndal Mazdoor Of Rajgamar Colliery, Add - Qtr. No. M-450, Ompur Colony Rajgamar Colliery Korba Area, P.O. Rajgamar Colliery, District Korba, Chhattisgarh.

---Respondents

For petitioner	:	Shri Vinod Deshmukh, Advocate.
For State	:	Shri Saleem Kazi, Dy.A.G.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

18/02/2019

1. The challenge in the present Writ Petition is to the RRC proceedings initiated by the respondent No.2 against an order passed by the Controlling Authority under the Payment of Gratuity Act, Bilaspur in case No. BSP-36(03)/2018/RRC decided on 06/04/2018.
2. The counsel for the petitioner at the outset submits that, the said order of the Controlling Authority under the Payment of Gratuity Act has already been challenged by way of an appeal before the Appellate Authority under the Payment of Gratuity Act under Section 7(7) and the appeal has been

filed before the Deputy Chief Labour Commissioner (Central) vide case No. PGA/Appeal/4/2019 and the Appellate Authority has also taken cognizance of the said appeal and has issued notice and the next date of hearing has been given on 19/02/2019.

3. Meanwhile, the Controlling Authority has issued direction to the State authorities for initiating recovery proceedings against the petitioner for recovering the amount awarded by the Controlling Authority. Based on the said notice, the respondent No.2 has also initiated RRC proceedings against the petitioner for the awarded amount.

4. The contention of the petitioner is that, the decision on part of the respondent No.2 is totally uncalled for, for the reason that, the matter is already is subjudice in an appeal and the appeal is yet to be decided and the respondents therefore should not have initiated recovery proceedings. The counsel for the petitioner further submits that, in addition, the authorities also should have considered that the entire amount has already been deposited as is required under the Act for filing of the appeal before the Appellate Authority and for this reason also the recovery proceedings should not have been initiated.

5. The State counsel however opposing the petition submits that, it is only an appeal that has been preferred by the petitioner and since there is no interim order or stay granted in their favour, the respondent authorities have all the power for getting the order of the Controlling Authority executed and thus there does not seem to be any illegality in the same.

6. Having heard the contentions put forth on either side and on perusal of record, prima-facie the petition filed by the petitioner seems to be on strong footing for the reason that, firstly, the petitioner have availed their right to appeal as provided under the statute. Secondly, as is required under the provisions of Act, the petitioner have also deposited the entire awarded amount before the Appellate Authority. Under the said circumstances, in all fairness, the Controlling Authority, the concerned employee i.e. the respondent No.3 as well as the Tahsildar should have waited for the outcome of the appeal or atleast should have waited till the interim application in the appeal is decided.

7. Given the aforesaid facts and circumstances of the case, this Court is of the opinion that, ends of justice would meet if the Writ Petition is allowed and the respondent No.2 is directed not to proceed further with the RRC proceedings till the appeal of the petitioner which is pending consideration before the Appellate Authority (Deputy Chief Labour Commissioner (C)) is finally decided.

8. The Writ Petition with the aforesaid direction stands allowed and disposed off.

Sd/-

(P. Sam Koshy)
JUDGE