

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPL No. 142 of 2019

Sub Area Manager SECL Rajgamar Project, Korba Area, P O Rajgamar
District Korba Chhattisgarh

---- Petitioner

Versus

1. The Appellate Authority Under The Payment Of Gratuity Act 1972 And The Deputy Chief Commissioner (C), Govt. Of India, Ministry Of Labour And Employment Raipur Chhattisgarh
2. The Controlling Authority And The Regional Labour Commissioner (C) Gratuity Act, 1972, Bilaspur Chhattisgarh
3. Shri Victor Fidlish Ex Office Superintendent Qtr. No. T/c/8 Shahid Bhagat Colony, Korba Area, District Korba Chhattisgarh

---Respondents

For Petitioner	:	Shri Vivek Verma, Advocate.
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Hon'ble Shri Justice P. Sam Koshy

Order on Board

27/06/2019

1. The Challenge in the present writ petition is to the order passed by the Controlling Authority under the Payment of Gratuity Act dated 30.08.2018 and the Appellate Authority under the Payment of Gratuity Act, 1972, dated 17.05.2019 in (Annexure P/1).
2. The limited issue involved in the instant case is that the respondent No. 3, an employee of the petitioner establishment stood retired from service w.e.f 31.05.2018. Upon his retirement, the petitioner was entitled for payment of gratuity. The respondents did not release the gratuity payable to the petitioner on the ground that the petitioner has not vacated the quarter that the respondent No. 3 was allotted while he was in service. The employee concerned moved a claim/ application before the Controlling Authority under the Payment of

Gratuity Act, 1972, Bilaspur, seeking a direction for release of the same.

3. After hearing two parties, the Respondent Controlling Authority vide its order dated 30.08.2018 allowed the application and directed the petitioner management to immediately release the entire gratuity amount payable to respondent No. 3 with interest @ 10% per annum.
4. Against the said order, the petitioner had preferred an appeal under section 7(7) of the Payment of Gratuity Act, 1972 before the Appellate Authority and Appellate Authority also in turn rejected the order on 17.05.2019 affirming the order passed by the Controlling Authority.
5. The only ground which the petitioner put forth is that, the management had in fact not released the gratuity amount on account of respondent No. 3 not vacating the official quarter allotted to him. So far as withholding of gratuity on the ground of non-vacation of the official quarter is concerned, the same is no longer res-integra as it has been repeatedly held by various High Courts as also by the Supreme Court that retention of the quarter after retirement by an employee can not be a ground for withholding of gratuity. The Supreme Court as well as High Courts have been very clear on the issue that the gratuity of amount payable to an employee can be withheld only under the provision of section 4(6) Payment of Gratuity Act, 1972. The said provision does not envisage withholding of the gratuity for vacating of official quarter.

6. In view of the aforesaid legal position as it stands, this Court does not find any strong case made out by the petitioner calling for an interference that the two orders passed by the Controlling Authority as well as by the Appellate Authority, particularly when the two orders have been passed purely in accordance with the provision of the Act. Another reason why this Court is reluctant to interfere with the order is that the department has got various other means of getting the quarter vacated if the employee has unauthorizedly retained the official quarter beyond the permissible limit after his retirement. The management can not be permitted to withhold dues payable on retirement has tactics in getting the quarter vacated particularly when the management has got its own mechanism available for taking care of the quarters which are allotted to its employee.
7. The writ petition thus fails and accordingly stands rejected.

Sd/-
(P. Sam Koshy)
Judge

Jyotijha/rahul