

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
WA No.477 of 2019

(Arising out of order dated 10.9.2018 passed by learned Single Judge in
WPL- 69 of 2017)

1. State of Chhattisgarh Through The Secretary Department of Water Resources, Hasdeo Bango Project, Indrawati Bhawan, Mantralaya, Atal Nagar Raipur Chhattisgarh.
2. The Appellate Authority Payment of Gratuity Act, 1972 and Office of Deputy Labour Commissioner, Indrawati Bhawan, District Raipur Chhattisgarh.
3. The Executive Engineer Minimata Bango Canal No. 5, Kharsiya, District Raigarh Chhattisgarh.
4. The Controlling Officer Payment of Gratuity Act, 1972 and Office of Assistant Labour Commissioner, Raigarh Chhattisgarh.

---- Appellants

Versus

Surendra Kumar Thakur S/o Late Rajaram Singh Thakur Aged About 68 Years R/o LIG - 236, Dhanwantri Nagar Bhukamp Basti, Maharana Pratap Ward, Gadha, Purva, District - Jabalpur Madhya Pradesh.

-----Respondents

For Appellant/State	: Shri Vikram Sharma, Dy. Govt Advocate.
For Respondent	: Shri Anup Majumdar, Advocate.

Hon'ble Shri PR Ramachandra Menon, Chief Justice &
Hon'ble Shri Justice Parth Prateem Sahu
Judgment on Board

Per PR Ramachandra Menon, CJ

04.12.2019

1. Challenge is against the verdict passed by the learned Single Judge on 10.9.2018 in WPL No.69/2017 whereby the claim to get gratuity in respect of the service rendered by him prior to regularization, was also directed to be reckoned as part of the qualifying service for the purpose of computing the gratuity.
2. The claim was opposed from the part of the State on various grounds, particularly with reference to the 'continuous service' defined under Section 2A of the Payment of Gratuity Act, 1972 (in short, 'the Act of 1972'). The matter was considered elaborately in the light of the law

declared by the Hon'ble Supreme Court in Civil Appeal No.1254/2018 **(Netram Sahu v. State of Chhattisgarh & Anr)**. It was accordingly that, the claim was upheld declaring that the writ petitioner was eligible to get the benefits, to have the prior service for the period from 01.05.1974 to 03.11.1998 also to be counted for computing the gratuity; thus, allowing the writ petition; correctness of which is put to challenge in this appeal.

3. When the matter came-up for consideration before this Court on the last occasion, some doubt was expressed by this Court also with regard to 'applicability of the Act of 1972' by virtue of the specific exclusion in the case of an 'employee' of the Central Government or the State Government with reference to the definition of the term 'employee' under Section 2(e) of the Act, 1972.
4. Today, when the matter is taken up for consideration, it is brought to the notice of this Court that the writ petitioner, who was subsequently regularized in the service of the State Government and became a permanent employee in the State Government, is of-course governed by the C.G. Civil Services Pension Rules, 1976, including for the payment of gratuity as mentioned in the Rule 44, read with Rules 43 and 45. At the same time, it is brought to the notice of this Court that Circulars have been issued by the Government and the course of action to be pursued in respect to the 'prior service' before regularization, virtually granting benefits to have the same reckoned as well. It is further brought to the notice of this Court that the case of such persons governed by the Chhattisgarh (Workcharged and Contingency Paid Employees) Pension Rules 1979 was considered by this Court and the legal position has been made in unequivocal terms as per the judgment dated 07.11.2019

in WA No.90/2019 arising from the order dated 13.12.2018 passed in WPS No.8292/2018, which virtually supports the eligibility of the writ petitioner to get the benefits as ordered by the learned Single Judge. A copy of the said verdict is placed for perusal of this Court. We have perused the same; which supports the writ petition.

5. In the said circumstance, we find that the appeal is devoid of any merit and it stands dismissed accordingly. The amounts payable to the respondent/writ petitioner shall be caused to be released to him as expeditiously as possible at any rate within 'six weeks' from the date of receipt of a copy of this judgment.

Sd/-

(PR Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge