

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8091 OF 2019

Shri Atul Jauhari	...	Petitioner
Versus		
HiTech Specialities Solutions Ltd.		
And Another	...	Respondents

Mr. Ketan A. Dhavle for the Petitioner.
Mr. Pradeep J. Thorat for Respondent Nos.1 and 2.

CORAM : S.C. GUPTE, J.

DATE : 24 FEBRUARY 2020

P.C. :

. Heard learned Counsel for the parties.

2 This writ petition challenges concurrent orders passed by the Controlling Authority and the Appellate Authority under the Payment of Gratuity Act, 1972 (“Act”). These orders came to be passed on an application moved by the Petitioner herein for payment of gratuity under the Act. The applicant was recruited and appointed by M/s Dani Global, which was then a Division of Gujarat Organics Ltd, vide appointment letter dated 17 September 1996. M/s Dani Global was thereupon taken over by one Rangudyan Trading and Investment Co. Ltd and became a division of the latter. When this change occurred, by a letter dated 1 April 1999, the Petitioner was informed about his

employment thereafter with the new company. It was, however, made clear that though with effect from 1 April 1999, he would be deemed to have become employee of the new company, his employment, originally made when the company was the Division of Gujarat Organics Limited, would not be treated as broken or interrupted for the purpose of provident fund, gratuity or otherwise and that the employment would be reckoned for all purposes from the date of his appointment by the earlier employer. It was the case of the Petitioner before the authorities below that by virtue of this arrangement, the Petitioner was entitled to be paid gratuity in accordance with the scheme of Gujarat Organics Limited, which scheme offered thirty days' pay for each completed year and accordingly, better terms than the statutory gratuity scheme framed under the Act. Both authorities below have come to a concurrent finding of fact that the employer of the applicant-employee had changed with effect from 1 April 1999 and though he was offered continuity of service, the scheme of gratuity operated earlier by his earlier employer, did not apply to his employment with the new company. No fault can be found with the the conclusions of the authorities below. There is indeed nothing on record to suggest that the scheme purportedly applicable to the Petitioner under the old employer continued to apply to him under the new employer.

3 Learned Counsel appearing for the Petitioner relies on an assertion made by Respondent No.1 herein (new employer) in its written statement that all terms and conditions of his service as per

his original appointment letter would remain unchanged. The terms of his appointment letter, i.e. the letter of 17 September 1996 issued by Dani Global when it was a Division of Gujarat Organics Ltd., did not referred to the gratuity scheme applicable. The terms and conditions refers to his salary and other related terms, probation, termination, place of work, retirement age, etc. It is these terms and conditions which were continued by the new employer. That is what was conveyed in the above referred to assertion of Respondent No.1 in its written statement. This so called admission does not imply that the scheme of gratuity applicable to the Petitioner under the old employer would continue to apply to him.

4 There is, accordingly, no merit in the writ petition. The petition is dismissed.

(S.C. GUPTE, J.)

Rajesh V.
Chittewan

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