

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.13317 OF 2006

ORDER:

When the matter is taken up for hearing, learned Standing counsel Sri J.Prabhakar appearing for the petitioner had contended that the date of birth of the 2nd respondent workman at the time of initial appointment was recorded as 21 years as on 25.07.1962 but later his date of birth was altered as per SSC certificate. He further contends that as per the date of birth furnished by the 2nd respondent at the time of appointment, he was authorised to retire on 31.07.2001 but erroneously he was allowed to continue in service beyond the age of superannuation i.e., till 28.02.2003. He further contends that since the 2nd respondent was erroneously continued in service beyond the age of superannuation, he was paid gratuity by calculating the service upto 31.07.2001. Against the same, the 2nd respondent had approached the Controlling Authority under Payment of Gratuity Act, 1972 (for short 'the Act') and the Authority passed orders granting gratuity to the 2nd respondent by treating him to be in service till 28.02.2003. Challenging the same, the petitioner approached the Appellate Authority under Payment of Gratuity Act, 1972 by filing appeal and the said Appellate Authority vide order dated 30.12.2005 upheld the order of the Controlling Authority. Challenging the same, the present writ petition is filed.

He further contends that the Authority under the Act ought not to have allowed the claim of the 2nd respondent workman and that the Authority has no jurisdiction to correct the date of birth of the 2nd respondent workman. Therefore, he contends that

appropriate orders be passed in the writ petition by setting aside the orders passed by the Authority under the Act.

Learned counsel for the 2nd respondent workman had contended that the Authority under the Act had not determined the age of the 2nd respondent and that it has passed orders in favour of the 2nd respondent workman by duly taking into account the fact that the 2nd respondent workman was allowed to continue in service till 28.02.2003. Therefore, he contends that there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions made by both the parties, is of the considered view that the Authority had never gone into the issue of correct date of birth of the 2nd respondent workman. It has adjudicated the claim of the 2nd respondent workman by duly taking into account the fact that he was allowed to continue in service in the 1st respondent organisation basing on his actual date of birth.

Therefore, this Court is not inclined to interfere in the impugned order dated 30.12.2005 and the writ petition is accordingly dismissed. No order as to costs.

As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

Date: 10-01-2020
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