

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.1124 of 2009

Ardhendu Chatterjee, aged about 76 years, S/o late Mritunjoy Chatterjee, Sr. MIG-66, Nehru Nagar, P.O. & Distt. Korba (C.G.) Pin 495677

---- Petitioner

Versus

1. Deputy General Manager, Dipka Area, SECL, P.O. Dipka, Distt. Korba
2. South Eastern Coalfields Limited, Through its Chairman-cum-Managing Director, Seepat Road, Bilaspur (C.G.)
3. Controlling Authority under the Payment of Gratuity Act / Assistant Labour Commissioner (Central), Torwa Main Road, Bilaspur (C.G.)

---- Respondents

For Petitioner: Mr. Gary Mukhopadhyay, Advocate.

For Respondents No.1 and 2 / SECL: -

Mr. Sudhir Kumar Bajpai, Advocate.

For Respondent No.3: Mr. R.K. Gupta, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

09/12/2021

1. The petitioner retired from service of South Eastern Coalfields Limited (SECL) on 31-11-2001, but the amount of gratuity was not paid and by order dated 28-11-2002, the controlling authority directed that he be paid the amount of gratuity along with interest @ 10 % per annum from 1-12-2001 to the actual date of payment. However, SECL though calculated the amount of gratuity along with interest, but has deposited the same with the controlling authority on 20-1-2003 which the controlling authority disbursed to the petitioner on 16-1-2004. Now, the petitioner claims that he is entitled for interest from 20-1-2003 to the actual date of payment i.e. 16-1-2004, as the respondent SECL instead of making payment directly to the petitioner deposited

the amount with the controlling authority which took one year in disbursing the same to the petitioner.

2. Mr. Gary Mukhopadhyay, learned counsel appearing for the petitioner, would submit that the petitioner is entitled for interest as it is the deliberate act on the part of SECL in not making payment despite the order of the controlling authority dated 28-11-2002 by which the controlling authority has directed that the petitioner be paid the amount of gratuity along with interest @ 10% per annum from 1-12-2001 till the date of actual payment.
3. On the other hand, Mr. Sudhir Kumar Bajpai, learned counsel appearing for SECL / respondents No.1 & 2, and Mr. R.K. Gupta, learned counsel appearing for the Controlling Authority under the Payment of Gratuity Act / respondent No.3, would oppose the submission of learned counsel for the petitioner and submit that there is four years delay in filing the writ petition and the order dated 28-11-2002 has already been complied with and therefore the writ petition deserves to be dismissed.
4. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the record with utmost circumspection.
5. The Controlling Authority under the Payment of Gratuity Act, 1972 by order dated 28-11-2002, in paragraph 12, directed as under: -

“(12) In view of the above findings, I hereby direct the Employer to pay an Amount of Rs.3,50,000-00 (Rupees Three lakh and fifty thousand only) as Gratuity to the Applicant together with simple interest @ 10% per annum w.e.f. 1.12.2001 till date of actual payment made to him. The said awarded amount plus interest should be paid to the applicant within 30 (Thirty) days of receipt of this Order. I order accordingly. Formal Notice in Form-R is also being issued separately and attached to this Order.”

6. The order dated 28-11-2002 was challenged by SECL in appeal which was dismissed by the appellate authority against which a writ petition was filed before this Court which was dismissed as not pressed by SECL. Though the controlling authority directed that the amount of gratuity along with interest be paid to the petitioner, SECL in its wisdom decided to deposit the amount before the controlling authority and the controlling authority took one year to disburse the amount to the petitioner and ultimately, the amount of gratuity was disbursed to the petitioner on 16-1-2004. As such, earlier, the delay occurred in disbursing the amount of gratuity to the petitioner is on account of SECL having challenged the order of the controlling authority before the appellate authority and thereafter, before this Court and that is the reason why the petitioner was not paid the amount of gratuity directly and as such, the amount was deposited with the controlling authority by SECL and after dismissal of writ petition, the amount was disbursed to the petitioner as late as on 16-1-2004.
7. Respondents No.1 and 2 / SECL could have complied the order of the controlling authority and could have paid the actual amount immediately after the order of the controlling authority which SECL did not do and deposited the amount with the controlling authority preferably for the reason that SECL has decided to contest the order of the controlling authority in appeal and thereafter in writ petition. As such, the fact remains that there is one year delay in disbursing the amount of gratuity to the petitioner and ultimately, it was disbursed to the petitioner on 16-1-2004 for which SECL is responsible and for which the petitioner would be entitled for interest from 20-1-2003 to 16-1-2004. Accordingly, the petitioner will be entitled for 10% interest per annum on the amount of gratuity, it shall be calculated and paid to

the petitioner within 60 days from today.

8. The writ petition is allowed to the extent indicated herein-above. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

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