

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (S) No.3047 of 2019

Umeshwar Dubey, S/o Vishwanath Dubey, aged about 62 years, R/o
Mayapur, Sadar, Thana Road, Ambikapur, Distt. Sarguja (C.G.)
---- Petitioner

Versus

1. Chhattisgarh Rajya Gramin Bank, through its Chairman, Head Office
Mahadev Ghat Road, Sundar Nagar, Raipur, Distt. Raipur (C.G.)
2. Area Manager, Chhattisgarh State Gramin Bank, Area Office
Baikunthpur, Distt. Korea (C.G.)
3. Assistant P.F. Commissioner (Pension), Raipur, Distt. Raipur (C.G.)
4. Commissioner, Employees Provident Fund Organisation, Regional
Office Raipur (C.G.)

---- Respondents

For Petitioner: Ms. Reena Singh, Advocate.

For Respondents No.1 and 2: -

Mr. Pankaj Singh, Advocate.

For Respondents No.3 and 4: -

Mr. Sunil Pillai, Advocate.

Amicus Curiae: Mr. Abhishek Sinha, Senior Advocate with Mr. D.L.
Dewangan, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

13/08/2021

1. Proceedings of this matter have been taken-up through video conferencing.
2. The petitioner's services have been terminated by the respondent Bank and against the order of removal, he preferred an appeal and the appellate authority has also affirmed that order against which W.P. (S)No.4541/2018 preferred by him is pending consideration before this Court. Meanwhile, the petitioner filed an application before the respondent Bank for payment of gratuity which has not been

considered and decided leading to filing of this writ petition for directing the respondents to pay gratuity amount with interest within one month. In support of his pleading, the petitioner has relied upon the decisions of the Gauhati High Court in the matter of Babita Gupta v. Assam Gramin Vikash Bank and others¹ and Assam Gramin Vikash Bank and another v. The Union of India and others².

3. Return has been filed stating that the petitioner is not entitled for payment of gratuity.
4. I have heard learned counsel for the parties and the *amicus curiae* as well.
5. The petitioner's services are governed by the Chhattisgarh Rajya Gramin Bank (Officers and Employees) Service Regulations, 2013 (for short, 'the Regulations of 2013') and Regulation 72 of the said Regulations deals with payment of gratuity. Sub-regulation (1) of Regulation 72 of the Regulations of 2013 provides that an officer or employee shall be eligible for payment of gratuity either as per the provisions of the Payment of Gratuity Act, 1972 or as per sub-regulation (2), whichever is higher. As such, the petitioner has only made an application before respondents No.1 & 2 who have terminated the services of the petitioner, but he has an option under Regulation 72(1) of the Regulations of 2013 either to make an application before the controlling authority under the Payment of Gratuity Act, 1972 or to make an application under Regulation 72(2) of the Regulations of 2013.
6. Be that as it may, the petitioner is at liberty to file fresh application claiming the amount of gratuity either before the controlling authority

1 W.P.(C)No.1697/2018, decided on 9-3-2021

2 2019 SCC Online Gau 5684 : (2020) 1 Gau LR 1

under the provisions of the Payment of Gratuity Act, 1972 or before respondent No.2 in accordance with the provisions contained in the Regulations of 2013, if so advised, and if such an application is made before either of the authorities for payment of gratuity, same will be considered and decided strictly in accordance with law by a reasoned and speaking order within 45 days from the date of receipt of application, as the petitioner has been removed from service on 4-4-2005. The petitioner is at liberty to file applicable rules, regulations and decisions of the High Courts and the Hon'ble Supreme Court in support of his application. It is made clear that this Court has not expressed any opinion on the merits of the matter.

7. With the aforesaid observation and direction, the writ petition stands finally disposed of for the present. No order as to cost(s).
8. This Court appreciates the assistance rendered by Mr. Abhishek Sinha, learned Senior Counsel, who appeared as *amicus curiae* and made submissions and also assisted the Court.

Sd/-
(Sanjay K. Agrawal)
Judge