



W.P.Nos.20766 & 20767 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2022

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

W.P.Nos.20766 & 20767 of 2005

W.P.No.20766 of 2005

The Chairman & Managing Director,
Bank of Baroda
No.3, Walchand Hirachand Marg,
Ballard Pier,
Mumbai - 38.

.... Petitioner

vs

1. Regional Labour Commission (Central
and The Appellate Authority under
The Payment of Gratuity Act,
Sastri Bhavan,
Chennai - 6.
2. P.Ramany,
Flat No.5, Bank of Barado Colony,
Kamaraj salai,
K.K.Nagar,
Chennai - 600 078.
3. The Controlling Authority under
The Payment of Gratuity Act
(Assistant Labour Commissioner (Central)),
Sastri Bhavan,
Chennai - 6.

.... Respondents

Writ Petition filed under Article 226 of the Constitution to issue a
Writ of Certiorari to call for the records relating to the order dated



W.P.Nos.20766 & 20767 of 2005

WEB COPY

27.12.2000 in Gratuity Application No.34 of 2000 on the file of the 3rd respondent as confirmed by the order dated 18.08.2004 in Gratuity Appeal No.6 of 2002 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.K.S.V.Prasad

For Respondents : Mr.K.Elango for R1
Mrs.Rita Chandrasekar
for M/s. Aiyar & Dolia) for R2
No appearance for R3

W.P.No.20767 of 2005

The Chairman & Managing Director,
Bank of Baroda
No.3, Walchand Hirachand Marg,
Ballard Pier,
Mumbai - 38.

.... Petitioner

vs

1. Regional Labour Commission (Central
and The Appellate Authority under
The Payment of Gratuity Act,
Sastri Bhavan,
Chennai - 6.
2. S.Rama Krishnan,
'Anjana' 10-A, Jawahar 2nd Street,
Madurai - 625 010.
3. The Controlling Authority under
The Payment of Gratuity Act
(Assistant Labour Commissioner (Central)),
Sastri Bhavan,
Chennai - 6.

.... Respondents



W.P.Nos.20766 & 20767 of 2005

WEB COPY

Writ Petition filed under Article 226 of the Constitution to issue a Writ of Certiorari to call for the records relating to the order dated 27.12.2000 in Gratuity Application No.35 of 2000 on the file of the 3rd respondent as confirmed by the order dated 18.08.2004 in Gratuity Appeal No.7 of 2002 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.K.S.V.Prasad

For Respondents : Mr.K.Elango for R1
Mrs.Rita Chandrasekar
for M/s. Aiyar & Dolia) for R2
No appearance for R3

COMMON ORDER

These writ petitions were filed by the Petitioner Bank against the impugned order dated 18.08.2004 passed by the 1st respondent in Gratuity Appeal No.6 of 2002 & Gratuity Appeal No.7 of 2002 respectively, dismissing the PG Appeal filed by the Bank, thereby giving directions that the Bank should pay the gratuity to the 2nd respondent herein.

2. Heard the learned counsel for the petitioner and the learned counsel appearing for the 1st and 2nd respondents.

3. Learned counsel for the petitioner would state that similar issue has already been decided by the Hon'ble Supreme Court in



W.P.Nos.20766 & 20767 of 2005

Appeal No.197/2010, (Indian Overseas Bank Vs Regional Labour Commissioner & Ors) and the Hon'ble Apex Court has allowed the Appeal accepting the submission of the Management of Indian Overseas Bank that the fixation of date for financial benefits, w.e.f., 01.03.1989 does not suffer from any infirmity and the view of the High Court was unsustainable, thereby holding that the Officer concerned was not eligible for additional Gratuity, claimed by him. The said order is applicable to the 2nd respondent herein also.

4. The relevant portion of the order passed by the Hon'ble Supreme Court order in Civil Appeal No.197/2010 dated 29.11.2018 is extracted hereunder:

The Association of Employees filed a Writ Petition in the Patna High Court, which writ petition was allowed on 21.08.1996. Notifications in questions were quashed and Government was directed to reconsider the matter in accordance with law. The judgment was although challenged in this Court but the special leave petition was summarily dismissed by this Court on 20.01.1997. The Governor of Bihar issued an Ordinance namely “the Bihar State Government Employees Revision of Pension, Family Pension and Death-cum-Retirement Gratuity (Validation and Enforcement) Ordinance, 2000”, which was subsequently replaced by the Bihar Act 3 of 2001. The Act validated the revision of pension and gratuity in accordance with earlier two resolutions dated 19.04.1990. A writ petition was filed in the



W.P.Nos.20766 & 20767 of 2005

WEB COPY

High Court challenging the Ordinance, which was struck down by the High Court. The challenge to the Ordinance and the Act on the ground of violation of Article 14, i.e. cut-off date for payment of the pensionary benefits w.e.f. 01.03.1989 was repelled by this Court. In Paragraph No. 17, this Court held:-

17.The only ground on which Article 14 has been put forward by the learned counsel for the respondent is that the fixation of the cut-off date for payment of the revised benefits under the two notifications concerned was arbitrary and it resulted in denying arrears of payments to certain sections of the employees. This argument is no longer res integra. It has been held in a catena of judgments that fixing of a cut-off date for granting of benefits is well within the powers of the Government as long as the reasons therefor are not arbitrary and are based on some rational consideration.”

Thus, this Court held that the fixation of date for payment of financial benefits, w.e.f. 01.03.1989, does not suffer from any infirmity, even though the effective date of the notification was fixed as 01.01.1986. The above ratio fully supports the view, which we have taken above.

In view of the aforesaid, we are of the view that the Division Bench judgment of the High Court is unsustainable. In the facts of the present case, looking to the quantum of amount which is only Rs.85,400/- which was directed to be paid to the respondent No.3 more than a decade ago, the appellant-Bank shall not take any step for recovery of the said amount, in case the amount has already been paid to respondent No.3. Subject to the above, the appeal is allowed. No costs.



W.P.Nos.20766 & 20767 of 2005

WEB COPY

5. This Court is of the view that the above decision of the Hon'ble Supreme Court would squarely apply to the facts of the present case also. Accordingly, the Writ Petitions are disposed of in terms of the aforesaid order passed in Civil Appeal No.197/2010 dated 29.11.2018. No costs.

02.12.2022

Index:Yes/No
Speaking/Non-speaking order
vsi

To

1. Regional Labour Commission (Central
and The Appellate Authority under
The Payment of Gratuity Act,
Sastri Bhavan,
Chennai - 6.
2. The Controlling Authority under
The Payment of Gratuity Act
(Assistant Labour Commissioner (Central)),
Sastri Bhavan,
Chennai - 6.



WEB COPY



W.P.Nos.20766 & 20767 of 2005

J.NISHA BANU,J.

vsi

W.P.No.20766 & 20767 2005

02.12.2022