

HON'BLE SRI JUSTICE J. SREENIVAS RAO

WRIT PETITION NO.22853 OF 2005

ORDER:

Heard learned counsel for the petitioner-Corporation and learned counsel for the 1st respondent.

2. Petitioner-Corporation filed the Writ Petition questioning the order passed by the 2nd respondent in M.P.No.13 of 2001 dated 17.02.2005 directing the petitioner-Corporation to pay an amount of Rs.1.65,739/-i.e. towards gratuity amount of Rs.1,49,650/- plus leave encashment salary of Rs.16,089/- as illegal and arbitrary.

3. Respondent No.1 was removed from service from the petitioner-Corporation on 27.03.1998 for his unauthorized absentism. Questioning the same, the 1st respondent filed I.D.No.67 of 1998 on the file of Industrial Tribunal-cum-Labour Court, at Hyderabad and the same was allowed and the Labour Court passed an Award directing the petitioner-Corporation to reinstate him into service with continuity of service without any back wages and the said Award was published on 25.10.1999. Thereafter, 1st respondent submitted a representation to the petitioner-Corporation for

implementation of the Award and to pay the benefits. Thereafter, the 1st respondent approached the 2nd respondent-Tribunal filed M.P.No.13 of 2001 under Section 33C (2) of Industrial Dispute Act, 1947 claiming an amount of Rs.3,20,224/- under various Heads.

4. The 2nd respondent-Tribunal after considering the oral evidence of W.W.1, M.W.1 and documentary evidence i.e. Exhibits W.1 to W.6 and Exhibits M.1 to M.11 partly allowed the M.P. No.13 of 2001 directing the petitioner-Corporation to pay an amount of Rs.1,65,739/- i.e. gratuity amount of Rs.1,49,650/- plus leave encashment salary of Rs. 16,089/- by its order dated 17.02.2005.

5. The learned counsel for the petitioner contended that the 1st respondent after superannuation, continued the official quarter and he has to pay penal rent amount and the gratuity amount payable by the petitioner-Corporation was adjusted in respect of penal rent and the said contention of the petitioner-Corporation was not considered by the respondent No.2 Tribunal passed the impugned order.

6. On the other hand, the learned counsel for the 1st respondent contended that as per the provisions of the

Payment of Gratuity Act, 1972 and also as per Section 60 C.P.C, gratuity amount cannot be attached or withheld by the employer. He further contended that the 2nd respondent-Tribunal after considering the oral and documentary evidence, passed the impugned order and thereby, there is no illegality or irregularity in the impugned order.

7. This court having considered the rival submissions made by the parties, and records, is of the considered view that the 2nd respondent-Tribunal after considering the contentions raised by the 1st respondent and also the contentions raised by the petitioner-Corporation in respect of all the claims, partly allowed the application holding that the 1st respondent is entitled to an amount of Rs.1,49,650/- towards gratuity and an amount of Rs.16,089/- in respect of leave encashment salary.

8. The learned counsel for the 1st respondent has rightly contended that the gratuity amount payable to the employee cannot be attached or withheld by the employer and the same is contrary to the provisions of Payment of Gratuity Act, 1972 as well as Section 60 of C.P.C.

9. The impugned order passed by the 2nd respondent-Tribunal is in accordance with law and there are no grounds to interfere with the order passed by the 2nd respondent-Tribunal to exercise the powers conferred upon this court under Article 226 of Constitution of India. Accordingly, the Writ Petition is dismissed. No order as to costs.

As a sequel, miscellaneous applications, if any pending in this writ petition, shall stand closed.

Date: 23.12.2022
PL/Skj

J. SREENIVAS RAO, J

HON'BLE SRI JUSTICE J. SREENIVAS RAO

WRIT PETITION NO. 22853 OF 2005

Date: 23.12.2022

PL/Skj