IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1712 of 2018

==

The General Manager (Region), Food Corporation of India, Regional Office, Arunanchal Building, Exhibition Road, Patna-800001

... ... Petitioner/s

Versus

1. The Union of India, through the Secretary, Ministry of Labour and Employment, New Delhi.
2. The Deputy Chief Labour Commissioner (Central), Patna - cum - Appellate Authority under the Payment, under the Payment of Gratuity Act, 1972 Maurya Lok Complex, 2nd Floor, Panta -800001
3. The Assistant Labour Commissioner (Central)-cum-Controlling Authority under the Payment of Gratuity Act, 1972 Maurya Lok Complex, 2nd Floor, Panta -800001
4. Shri Vijayendra Kumar, Ex - Manager (Depot), Resident of House No. 04, Road No. 05, Shri Krishna Nagar, District Patna, 800001

... ... Respondent/s

==

Appearance :

For the Petitioner/s	:	Mr. P. K. Verma, Sr. Advocate
		Mr. Saroj Kr. Sharma, Advocate
		Mr. N. Dikshit, Adv.
For the Respondent/s	:	Ms. Kalpana, Advocate
For Resp. No. 4		Mr. Mukesh Kumar, Adv.

==

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL ORDER

12 18-12-2023 Heard the learned counsels for the parties.

2. This writ petition has been filed for seeking the following relief(s)

> "i. For quashing the order dated 24.06.2016 passed in Appeal Case No. 36/6/15 Appeal/RLC/Dy.CLC by the Deputy Chief Labour Commissioner (Central) Patna whereby and where under his appeal filed against the order dated 01 / 08h December, 2015 passed by the Assistant Labour Commissioner cum Controlling authorities under the Payment of Gratuity Act, 1972, has been dismissed.
>
> ii. For quashing the order dated 01/12/2015 /

> 08/12/2015 passed by theAssistant Labour Commissioner (Central) Patna - cum - Controlling Authority under the Payment of Gratuity Act, 1972 in file No. 48 / 1(16) / 2015 / ALC - I, vide which he has directed for payment of gratuity and interest amounting to Rs. 11,50,000/- to the respondent No.4 which is wholly beyond jurisdiction."

3. Learned counsel appearing on behalf of the petitioner has stated that the Respondent No. 4 was earlier working at the petitioner's office in Patna and was transferred to Odisha. The Respondent No. 4 though was relieved from Patna on 25.08.2012 did not join the office at Odisha. That even till the date of superannuation, the Respondent No. 4 did not join services in Odisha and superannuated from there. Thereafter, the Respondent No. 4 moved the Controlling Authority under the payment of Gratuity Act at Patna for payment of gratuity due to the Respondent No. 4. That the authority concerned without going into the various objections raised by the petitioner herein more specifically that the Controlling Authority, Patna did not have territorial jurisdiction to decide the matter as the Respondent No. 4 at the time of superannuation was not working in Patna and was transferred to Odisha has not dealt with the said issue and directed the authorities to make the payment of gratuity to the Respondent No. 4. Aggrieved by the order dated 01.12.2015 (Annexure 3/A) passed by the Controlling Authority, the petitioner has preferred an appeal (Annexure 7) before the Deputy Chief Labour Commissioner (Central), Patna. The Appellate Authority without going into the merits of the case has dismissed the appeal solely on the ground that the petitioner has not deposited the gratuity amount before the Controlling Authority for entertaining the said appeal. Learned counsel has stated that the petitioner is willing to deposit the said amount without prejudice his rights and the appellate authority may be directed to decide the question of jurisdiction first and then decide the case on merits.

4. Learned counsel appearing on behalf of the respondents has stated that the petitioner while on one hand is not disputing the entitlement of the petitioner for receiving of the gratuity amount are only questioning the territorial jurisdiction of the Controlling Authority, Patna in passing the order dated 01.12.2015. Learned counsel has stated that irrespective of the fact as to whether the Respondent No. 4 has retired from Odisha or from Patna, he is entitled for the payment of gratuity as per the provisions of the Act. Learned counsel has therefore prayed this Hon’ble Court to dismiss the present writ petition. Learned counsel appearing on behalf of the Respondent

No. 4 has stated that the Respondent No. 4 was not relieved from Patna and, therefore, the question of superannuating from Odisha does not arise.

5. Admittedly in the present case, the petitioner has raised objection with regard to the territorial jurisdiction of the Controlling Authority, Patna entertaining the case filed by the Respondent No. 4. The objection is on the ground that the Respondent No. 4 at the time of superannuation was not working in Patna but was already transferred to Odisha office of the petitioner’s corporation. However the authority has not decided the issue and passed the order holding that the petitioner is liable to pay the gratuity amount to the Respondent No. 4, the Appellate Authority has not entertained the appeal on the ground that the petitioner has not deposited the gratuity amount before the Controlling Authority as mandated under Section 7(7) of the Act.

6. Having regard to the submission made by the counsel appearing on behalf of the petitioner that the petitioner is willing to deposit the gratuity amount before the Controlling Authority, without going into the merits or demerits of the case the present CWJC is disposed off with a direction to the petitioner to deposit the gratuity amount before the Controlling

Authority. The deposit of the amount is without prejudice the rights of the petitioner. On such deposit the appeal shall be taken up by the authority concerned for dealing the appeal on merits. The petitioner shall deposit the gratuity amount as determined by the Controlling Authority within a period of four weeks from today and intimate the same to the Appellate Authority. The Appellate Authority shall first decide the question of territorial jurisdiction and adjudicate as to whether the Controlling Authority has the jurisdiction to entertain the case filed by the Respondent No. 4 and thereafter decide the appeal on merits.

7. It is needless to mention that before passing any orders, the authority concerned shall put the petitioner and the Respondent No. 4 on notice and give them an opportunity of hearing and if necessary file counter by the Respondent No. 4. The entire exercise shall be completed as expeditiously as possible preferably within a period of three months thereof. Any order passed shall be communicated to the parties. Till such time the appeal is decided, the Controlling Authority is directed not to disburse the gratuity amount deposited by the petitioner. In case the appeal is decided in favour of the Respondent No. 4, the Controlling Authority shall then release the gratuity amount in favour of Respondent No. 4.

8. With the above directions, the present writ petition stands disposed off.

(A. Abhishek Reddy , J)

Bhardwaj/-

U			