

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10931 OF 2019

Babu P. Amin

...Petitioner

Versus

M/s. S. V. Pikale And Co. And Anr.

...Respondents

....

Mr. Jitendra B. Mishra, a/w. Mr. Rupesh Dubey, Mr. Ashutosh Mishra,
for Petitioner.

Mr. Swapnil Ravindra Patil, for Respondent No.1.

....

CORAM : SANDEEP V. MARNE, J.

DATED : 16 FEBRUARY 2024.

P.C. :

By this petition Petitioner challenges Order dated 14 February 2019 passed by the Appellate Authority under the Payment of Gratuity Act, 1972 (**Gratuity Act**) rejecting Appeal (PGA) No.40 of 2018 thereby confirming Judgment and Order dated 10 April 2018 passed by the Controlling Authority in Application (PGA) No.04 of 2016.

2. I have heard Mr. Mishra, the learned counsel appearing for Petitioner and Mr. Patil, the learned counsel appearing for Respondents.

3. It must be observed at the very outset that the reason for rejection of Petitioner's application for payment of gratuity as recorded by the Controlling Authority and Appellate Authority is rather bizarre. There is

admittedly cessation of services of the Petitioner with the Respondent w.e.f. 28 August 2010. Whether Petitioner is terminated or whether he has abandoned services, in my view, becomes irrelevant for the purpose of payment of gratuity. Petitioner is willing to accept cessation of his services with the Respondent w.e.f. 28 August 2010. He does not wish to claim anything in respect of period after 28 August 2010. All of that he desires to claim is that the gratuity in respect of services rendered by him up to 28 August 2010. In my view, he should be paid gratuity as per the provisions of the Gratuity Act. Proving this grievance of the Petitioner, Competent Authority has gone on the cessation and taken a highly technical view that the case of the Petitioner is not covered under provisions of Section 4 of the Gratuity Act. I have find the Orders of Controlling Authority and Appellate Authority totally unsustainable. Petitioner has rendered services with the Respondent and he does not wish to claim any benefit in respect of period after 28 August 2010. In that view of the matter, he must be paid gratuity in respect of services up to 28 August 2010.

4. Accordingly, Writ Petition succeeds. Orders dated 10 April 2018 passed by the Competent Authority and 14 February 2019 passed by the Controlling Authority are set aside. Respondent is directed to pay to the Petitioner gratuity, alongwith interest at the rate of 6% per annum from the date of application i.e. 06 June 2014, in respect of services rendered up to 28 August 2010 within a period of 08 weeks from today.

5. With the above directions, Writ Petition is disposed of.

SANDEEP V. MARNE, J.

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