*** THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI**

+W.P.NO. 2649 OF 2023

% 04.11.2026

#Between:

The Principal SVLNS, Government Degree College,
Bheemunipatnam, Visakhapatnam

…… Petitioner

$And:

The Controlling Authority Under Payment Of Gratuity Act And Assistant, under Payment of Gratuity Act and Assistant Commissioner of Labour, Circle-I, Visakhapatnam & others

… Respondents

!Counsel for the Petitioner : Sri Ramachandra Rao Gurram, learned Government Pleader for Higher Education

^Counsel for the Respondents : Sri K. Jyothi Prasad, learned counsel for R.4

<Gist:

>Head Note:

? Cases referred:

1. 2026 SCC OnLine SC 189
2. 2022:APHC:11739

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

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W.P.NO. 2649 OF 2023

The Principal SVLNS, Government Degree College, Bheemunipatnam, Visakhapatnam

…… Petitioner

And:

The Controlling Authority Under Payment Of Gratuity Act And Assistant, under Payment of Gratuity Act and Assistant Commissioner of Labour, Circle-I, Visakhapatnam & others

….Respondents

DATE OF ORDER RESERVED	**:**	**29.09.2026**
DATE OF ORDER PRONOUNCED	**:**	**04.11.2026**
DATE OF ORDER UPLOADED	**:**	**11.11.2026**

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE BALAJI MEDAMALLI

1. Whether Reporters of Local newspapers may be allowed to see the Order? Yes/No

2. Whether the copies of order may be marked to Law Reporters/Journals? Yes/No

3. Whether Your Lordships wish to see the fair copy of the Order? Yes/No

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JUSTICE BALAJI MEDAMALLI

Date of reserved for orders : 29.09.2026
Date of pronouncement : 04.11.2026
Date of uploading : 11.11.2026

APHC010054232023

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)

WEDNESDAY, THE 04th DAY OF NOVEMBER, 2026

PRESENT

THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI

WRIT PETITION NO: 2649 OF 2023

Between:

1. THE PRINCIPAL SVLNS, GOVERNMENT DEGREE COLLEGE, Bheemunipatnam, Visakhapatnam.

...Petitioner

AND

1. The Controlling Authority Under Payment Of Gratuity Act And Assistant, under Payment of Gratuity Act and Assistant Commissioner of Labour, Circle-I, Visakhapatnam.

2. The Appellate Authority under Payment of Gratuity Act and Deputy Commissioner of Labour, Visakhapatnam.

3. The Union of India, rep by its Secretary, Ministry of Labour and Employment, New Delhi.

4. K Sadhu, S/o. Late. Pydanna, D.No.11-67/6, Appikonda Street, Bheemunipatnam, Visakhapatnam.

...Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be

pleased to issue a Writ, Order or direction more particularly one in the nature of Writ of certiorari calling for records from the file of the 1st respondent in P.G.No.01 of 2022 and quash the impugned order dated 12.12.2022 and to pass

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant stay of all further proceedings pursuant to the order dated 12.12.2022 passed in P.G.No.01 of 2022 on the file of the 1st respondent by suspending its operation, pending disposal of the above writ petition and to pass

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the interim orders dated 02.02.2023 and to dismiss W.P.No.2649 of 2023 with costs, in the interest of justice and to pass

Counsel for the Petitioner: GP FOR HIGHER EDUCATION (AP)

Counsel for the Respondents: MALLAMPALLI SRINIVAS

(CENTRAL GOVT COUNSEL)

Counsel for the Respondents: GP FOR SERVICES III

Counsel for the Respondents: K JYOTHI PRASAD

The Court made the following order:

THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI

WRIT PETITION NO: 2649 OF 2023

ORDER:

1. The Writ Petition is filed for the following relief:

> *"……to issue a Writ, Order or direction more particularly one in the nature of Writ of certiorari calling for records from the file of the 1st respondent in P.G.No.01 of 2022 and quash the impugned order dated 12.12.2022…."*

2. Case of the petitioner is that, petitioner challenges the order dated 12.12.2022 passed by respondent No.1 in P.G.No.1 of 2022, directing payment of Rs.2,62,500/- towards gratuity to 4th respondent (applicant), as illegal, without jurisdiction and in violation of principles of natural justice. Respondent No.4 claimed gratuity of Rs.2,62,500/- alleging 35 years of service and superannuation on 30.06.2021. Petitioner disputed the claim, contending that he was a part-time/contingent employee and was not entitled to gratuity under the applicable service rules. Objections regarding jurisdiction, maintainability and non-joinder of necessary parties were also raised before respondent No.1. However, without deciding the preliminary objections, respondent No.1 allowed the claim and directed deposit of the awarded amount within 30 days. Aggrieved by the same, petitioner preferred the present writ petition.

3. Heard Sri Ramachandra Rao Gurram, learned Government Pleader for Higher Education appearing for petitioner and Sri K. Jyothi Prasad, learned counsel for 4th respondent.

4. Learned Government Pleader appearing for petitioner contends that respondent No.1 failed to consider the status of 4th respondent as a part-time/contingent employee and the applicable service rules, as well as the objections relating to jurisdiction, maintainability and non-joinder of necessary parties. The earlier proceedings concerning regularization and grant of Minimum Time Scale were not considered. The impugned order is contrary to the applicable provisions of the A.P. Pension Rules, 1980 and the Payment of Gratuity Act, 1972, including Section 13 thereof. As petitioner has no efficacious alternative remedy, the present writ petition is filed invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

5. In the above circumstances, the point that arises for consideration before this Court is:

> ***"Whether the Controlling Authority appointed under Section 3 of the Payment of Gratuity Act, 1972, is competent and has jurisdiction to entertain and adjudicate the claim of 4th respondent / applicant for gratuity?"***

6. As stated above, 4th respondent claims to have rendered service for about 35 years, 4 months and 20 days, from 10.02.1986 to 30.06.2021, on a monthly remuneration, and his last drawn wages were Rs.13,000/-. Upon attaining the age of superannuation, he submitted an application before the Controlling Authority seeking payment of gratuity.

7. Case of the writ petitioner, however, is that 4th respondent was engaged as a part-time/contingent employee pursuant to the orders of the Government and was not appointed against a regular post or extended the benefits applicable to regular employees. Petitioner, therefore, disputes the entitlement of 4th respondent to gratuity and also questions the jurisdiction and competence of the Controlling Authority to entertain the claim.

8. Learned Government Pleader contends that 4th respondent does not fall within the definition of "employee" under section 2(e) of the Payment of Gratuity Act, 1972, as his services were not regularized. Even assuming that 4th respondent falls within the definition of "employee", his entitlement to gratuity and other retirement benefits is governed by the applicable Revised Pension Rules and, therefore, his remedy lies under the said Rules and not before the Controlling Authority under the Payment of Gratuity Act.

9. In the instant case, 4th respondent is admittedly not a regular employee and had worked only as a temporary employee. He is, therefore, not entitled to pension or other pensionary benefits under the Revised Pension Rules. However, 4th respondent claims entitlement to gratuity under the Payment of Gratuity Act, 1972, contending that he rendered service in an educational institution covered by the said Act. He accordingly approached the Controlling Authority appointed under Section 3 of the Act, seeking payment of gratuity. The Controlling Authority (respondent No.1), upon consideration of the claim, allowed the application and directed payment of the admissible gratuity. 4th Respondent, therefore, contends that his status as a temporary employee or

non-regularization of his services does not, by itself, disentitle him from claiming gratuity under section Payment of Gratuity Act, if he otherwise satisfies the requirements of the Act.

10. It is apposite to extract Section 2(e) of the Payment of Gratuity Act, 1972, which reads as under:

> *"employee" means any person (other than an apprentice) who is employed for wages, whether the terms of such employment are express or implied, in any kind of work, manual or otherwise, in or in connection with the work of a factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act applies, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity;*

11. Relying on the aforesaid, learned Government Pleader submits that, persons holding posts under the Central or State Government are excluded from the definition of “employee” under Section 2(e) of the Payment of Gratuity Act, 1972, subject to the statutory conditions therein. It is therefore contended that, if 4th respondent is governed by the applicable Government service rules and pensionary scheme, his claim would not lie under the Payment of Gratuity Act. Consequently, the Controlling Authority has no jurisdiction to entertain P.G.No.1 of 2022 and erred in allowing the claim.

12. Learned counsel for 4th respondent submits that petitioner was not covered by the pension rules governing payment of gratuity and that, there being no other applicable statutory scheme for payment of gratuity, the

employees of the institution were governed by the provisions of the Payment of Gratuity Act, 1972 as Educational institutions were brought within the purview of the said Act by Notification F.No.S-42013/1/95-SS-II dated 03.04.1997. Therefore, 4th respondent, who was working as a temporary employee in the educational institution, was covered by the provisions of the Payment of Gratuity Act. It is further submitted that, an employee who is not covered by any other law governing gratuity, whether employed under the State Government or the Central Government, is entitled to gratuity under the provisions of the Payment of Gratuity Act. Since 4th respondent was not covered by any other law governing gratuity, he was justified in invoking the provisions of the said Act. Accordingly, the proceedings before the Authority under the Payment of Gratuity Act were within its jurisdiction and were not vitiated for lack of jurisdiction.

13. Leaned Government Pleader appearing for petitioner relied on the decision of the Hon'ble Apex Court in ***N. Manoharan, Etc. V. Administrative Officer and Another***[1], wherein it held that:

> ***12.*** *It is relevant to notice that the amended definition deals with the first limb of Section 2(e),*[3] *and the second exclusionary limb is the same in the pre- and post-amendment provisions. Construing Section 2(e), the second limb begins with the words "but does not include" any such person (i) who holds a post under the Central Government, (ii) a State Government, (iii) is governed by any other Act or (iv) by any Rules providing payment of gratuity. The exclusionary clause, if read by applying the golden rule without a*

[1] 2026 SCC OnLine SC 189

further test, excludes employees of the Central and State Governments from the meaning of "employee" under the PG Act. Secondly, it also excludes a person who is governed by any other act. Thirdly, even if it is used as "or" but not as "and", it excludes any such person who is governed by any other Act or by any rules providing for payment of gratuity. The provision contains the words both "means" and "does not include". Under interpretation of statutes, this Court has repeatedly held that coupling the word "means" with "includes" denotes an exhaustive definition.[4] *Conversely, the word "means" and "does not include" should be read as exclusionary language that strictly excludes the scope of the provision from certain classes. Consequently, a person who is governed by any other Act, or governed by any Rules providing for payment of gratuity, does not come within the ambit of the definition of "employee" under the PG Act.*

14. Learned counsel, relying on the aforesaid judgment, submits that the Hon'ble Apex Court, while interpreting Section 2(e) of the Payment of Gratuity Act, held that the second part of the provision begins with the words "but does not include". It excludes a person who (i) holds a post under the Central Government, (ii) holds a post under a State Government, (iii) is governed by any other Act, or (iv) is governed by rules providing for payment of gratuity. The Hon'ble Apex Court further held that, on a plain reading of the exclusionary clause, employees of the Central and State Governments are excluded from the definition of "employee" under the Payment of Gratuity Act. The provision also excludes persons whose gratuity is governed by any other Act or rules providing for payment of gratuity. Thus, government employees and the employees covered by other enactments or rules relating to gratuity

do not fall within the definition of “employee” under the Payment of Gratuity Act.

15. In the instant case, the issue for consideration is whether 4th respondent falls within the definition of “employee” under the Payment of Gratuity Act. It is not in dispute that he was working in an institution under the control of the State Government and that his service conditions were governed by the applicable Government rules. Therefore, he is to be treated as an employee of the State Government, as such, he is excluded from the definition of “employee” under the Payment of Gratuity Act. Consequently, the provisions of the said Act are not applicable to him.

16. Learned counsel for 4th respondent placed reliance on the judgment of this Court in ***The Executive Engineer v. Jogi Ramulu***[2], wherein it was held that a person working in the Irrigation Department falls within the definition of “industrial establishment” under Section 2(k) of the Industrial Disputes Act, 1947, and is entitled to gratuity under the said Act even for the services rendered on NMR or work-charged basis. Accordingly, the proceedings initiated in favour of the employee were held to be valid.

17. However, the said judgment was rendered in the context of the Industrial Disputes Act, 1947, whereas the issue in the present case relates to the applicability of the Payment of Gratuity Act. The Hon’ble Apex Court has specifically held that employees of the State of Central Government are

[2] 2022:APHC:11739

excluded from the definition of “employee” under the Payment of Gratuity Act. Therefore, the judgment relied upon by learned counsel for 4th respondent does not advance his case. In view of the law laid down by the Hon’ble Apex Court, 4th respondent does not fall within the definition of “employee” under the Payment of Gratuity Act. Consequently, the Controlling Authority ought not to have entertained the application filed under the said Act.

18. As regards the entitlement of 4th respondent to gratuity under any other law, rules or service conditions, the same is not an issue that arises for consideration in the present writ petition. This Court, therefore, expresses no opinion on 4th respondent’s entitlement to such benefit. The only question considered herein is whether 4th respondent could maintain an application under the Payment of Gratuity Act before the Controlling Authority. Having regard to the finding recorded above that 4th respondent does not fall within the definition of “employee” under Section 2(e) of the Payment of Gratuity Act, the Controlling Authority had no jurisdiction to entertain an application under the said Act. Consequently, the proceedings in P.G.No.1 of 2023 and the order passed therein cannot be sustained.

19. Accordingly, the writ petition is ***allowed***. The impugned order dated 12.12.2022 passed in P.G.No.1 of 2022 by the Controlling Authority appointed under section 3 of the Payment of Gratuity Act, 1972, is set aside. It is, however, made clear that this order shall not preclude 4th respondent from approaching the competent authority under any other applicable law, rules or service conditions for claiming gratuity or any other retirement benefits, if

otherwise legally entitled to the same. Such claim shall be considered uninfluenced by the observations made in the present order.

As a sequel, pending miscellaneous applications, if any, shall stand closed.

JUSTICE BALAJI MEDAMALLI

Date: 04.11.2026
SAK

Whether the order is:

Speaking	☑	Reasoned	☑
Reportable	☑	Non-reportable	

THE HONOURABLE SRI JUSTICE BALAJI MEDAMALLI

WRIT PETITION NO: 2649 OF 2023

Date: 04.11.2026

SAK