

(1998) 06 AP CK 0021
In the Andhra Pradesh High Court
Case No : W.A. No. 945 of 1998

Andhra Pradesh State Warehousing Corporation	APPELLANT
Vs	
R. Nagaraju	RESPONDENT

Date of Decision : 24-06-1998

Acts Referred:

Andhra Pradesh State Warehousing Corporation Employees Gratuity Fund Regulations, 1974 — Regulation 4
Warehousing Corporations Act, 1962 — Section 42

Citation : (1998) 4 ALD 534 : (1998) 4 ALT 431 : (1999) 1 AnWR 210

Hon'ble Judges : Umesh Chandra Banerjee, C.J.; Bilal Nazki, J

Bench : Division Bench

Advocate : Mr. A. Sivaiah, SC for APSRTC, for the Appellant; Mr. G. Vidyasagar, for the Respondent

Judgement

Umesh Chandra Banerjee, C.J.—This appeal is directed against an order passed by the learned single Judge allowing the writ petition with a further direction to the appellant-Corporation herein to consider payment of gratuity to the petitioner in terms of Regulation 4 of the A.P. State Warehousing Corporation Employees Gratuity Fund Regulations, 1974, The learned single Judge further directed that such consideration for payment, as above, be effected within a period of four(04) weeks from the date of receipt of a copy of the order. Be it recorded that the learned single Judge has also directed payment of costs of Rs. 2,500/-.

2. It is now a well settled principle of law that gratuity cannot be termed to be a gratuitous payment - it is not a gift of the employer but a right as conferred in terms of the provisions of the statute.

3. The learned advocate appearing in support of the appeal contended that the Government order ought to be the basics for the purpose of payment of gratuity and the learned single Judge has erred in not having placed any reliance thereon. The learned advocate for the appellant, as a matter of fact, placed reliance on G.O.Rt.No.3280 (GAD), dated 05-07-1993 wherein it has been recorded in

paragraph 3 of the order as follows :

"Government after careful consideration of the above proposal hereby accord permission to all the State Level Public Enterprises to enhance the maximum gratuity limit to their employees from Rs.36,000/- to Rs. 50,000/- with effect from 31-3-1989 and from Rs. 50,000/- to Rs. 1,00,000/-with effect from 31-3-1990 as ordered in G.O.Ms. No. 150, Fin. & Plg. (FW-Pen.I) Dept., dated 4-4-1989 and G.O.Ms. No. 242, Fin. & Plg. (FW-Pen.I) Dept., dated 4-5-1990 respectively. Government also permit the beneficiaries eligible for pension to choose an option between the two methods of calculation of gratuity as derailed in the G.O.Ms. No. 242, Fin. & Plg. (FW-Pen.I) Dept., dated 4-5-1990."

4. The learned advocate for the appellant relying thereon submitted that maximum amount payable on account of gratuity is Rs. 1,00,000/-. We are, however, unable to record our concurrence. In any event, assuming the submissions to be correct, which we will presently deal with, this Government Order does not in fact fix a ceiling or a limit as to the payment of gratuity but simply enhanced the minimum from a particular sum to a particular sum.

5. In any event, Regulation 4 of the Regulations categorically points out that the amount of gratuity payable is equivalent to 15 days pay of the employee for each completed year of qualified service subject to a maximum of 20 months pay. The maximum limit is prescribed in the Regulations. It may be noted that these Regulations have been framed in exercise of the powers conferred under sub-section (1) of Section 42 of the Warehousing Corporation Act, 1962 and with previous sanction of the Government of Andhra Pradesh and A.P. State Warehousing Corporation. These Regulations, therefore, have a statutory force and cannot be said to be set aside or cancelled by a Government Order. The Regulations prescribe for 20 months' pay and there should not be any difficulty in the method of calculation of 20 months pay in terms of the Regulations. In that view of the matter, we are unable to record our concurrence with the submissions of the learned advocate for the appellant. The appeal, therefore, fails. The appellant is directed to pay the gratuity as is admissible with utmost expedition preferably within a period of six weeks from the date of communication of this order,

6. As regards the order for costs, the learned advocate appearing in support of the appeal contended that the learned single Judge has not exercised his discretion properly in the matter of award for costs. We do not, however, record any observation in regard thereto. But, on the prayer of the appellant, the same stands set aside and quashed. The appeal stands disposed of. No order as to costs.