

(2014) 03 KAR CK 0281

In the Karnataka High Court

Case No : Writ Petition Nos. 23863-864 of 2013 (L-PG)

Assistant Executive Engineer

APPELLANT

Vs

The Deputy Labour Commissioner and Appellate Authority

RESPONDENT

Date of Decision : 07-03-2014

Acts Referred:

Citation : (2014) 03 KAR CK 0281

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : K.S. Bharath Kumar, Advocate for the Appellant; K.A. Ariga, AGA for R1 and R2, Advocate for the Respondent

Final Decision : Allowed

Judgement

Ram Mohan Reddy, J.—Having heard the learned counsel for the parties, the lis brought before the Court lies in a narrow compass.

2. The third respondent while working as a daily wager, in view of the judgment of the Supreme Court, was regularized to the Post of "Air Compressor Operator", in the office of the 1st petitioner by the State of Karnataka during the year 1990, and on attaining the age of superannuation during the year 2005, the State of Karnataka extended the benefit of Death-cum-Retirement gratuity (DCRG) since the third respondent was under the services of the State. There afterwards, on receipt of the order by the Accountant General Karnataka State, 3rd respondent received DCRG amount and petitioned the Controlling Authority under the Payment of Gratuity Act, 1972 for redetermination of the gratuity alleging that he was entitled to much more gratuity by including his services from 1973 to 1990 when he served the State Government. That Controlling Authority without ascertaining as to whether he has jurisdiction in that matter, in a cavalier manner, re-determined the gratuity as if the 3rd respondent was employed by the petitioners. The order of the Controlling Authority when carried in appeal, the Appellate Authority yet again, in a similar fashion, accepted the verdict of the Controlling Authority and dismissed the appeal. Hence this writ petition.

3. Regard being had to the service register of the 3rd respondent maintained by the State Government specifying that the 3rd respondent is appointed by the State and therefore under the services of the State, it is needless to state that the Controlling Authority and the Appellate Authority under the Payment of Gratuity Act, 1972 had no jurisdiction and therefore their orders suffer from not only lack of jurisdiction but competence.

4. In the result, the" petitions are allowed. Orders of the Controlling Authority and the Appellate Authority are quashed. Petition filed before the Controlling Authority by the 3rd respondent is rejected. Amount in deposit, if any, is directed to be refunded to the 1st petitioner forthwith.