
(2001) 04 MP CK 0031

In the Madhya Pradesh High Court

Case No : Writ Petition No.359 of 2001

Bharat Commerce and Industries Ltd., Birlagram, Nagda

APPELLANT

Vs

Ramprasad and others

RESPONDENT

Date of Decision : 20-04-2001

Acts Referred:

Constitution of India, 1950 — Article 227
Payment of Gratuity (Amendment) Act, 1994 — Section 4(5)
Payment of Gratuity Act, 1972 — Section 4(3)

Citation : (2001) 91 FLR 828 : (2001) 2 LLJ 1033 : (2001) 3 MPHT 8

Hon'ble Judges : A.K. Gohil, J

Bench : Single Bench

Advocate : Shri Kuldeep Bhargava, for the Appellant;

Final Decision : Dismissed

Judgement

A.K.Gohil,J.

1. The petitioner/employer has filed this petition under Article 227 of the Constitution of India challenging the order passed by respondent No. 2 Appellate Authority under the Payment of Gratuity Act, 1972-cum-Dy. Labour Commissioner, Bhopal in Gratuity Appeal No. 72/1999 on 17-11-2000 and praying a writ of certiorari for quashing the same on the ground that respondent No. 1 had availed all the benefits of the settlement dated 15-4-1991 which was in force on the date of superannuation and, therefore, for determining the maximum gratuity, the provisions of Payment of Gratuity Act, 1972 (for short "the Act") cannot be adopted and the agreement/settlement cannot be read in pieces.

2. By the impugned order the Appellate Authority under the Act has rejected this contention of the petitioner that by virtue of agreement/settlement dated 15-4-1991 the ceiling of maximum limit of Rs. 50,000/- is applicable and the employee is not entitled more than 50,000/- even after the amendment in Section 4(3) of the Act by which the limit has been enhanced to Rs. 1,00,000/-

instead of Rs. 50,000/- with effect from 24-5-1994. It has been held by the Appellate Authority that the employees are entitled to get the benefit of this enhanced limit on the basis of amendment u/s 4(3) of the Act with effect from 24-5-1994 and the provisions of the agreement/settlement cannot create any bar against the statutory provisions and on that ground appeal of the employee was accepted and it is directed that employee is entitled for the payment of gratuity up to the maximum limit of Rs. 1,00,000/-. The Appellate Authority has already rejected this contention of the petitioner that for the purposes of higher limit the terms of the agreement/settlement would be applicable and not the amended provisions of Section 4(3) of the Act. Under sub-section (5) of Section 4 of the Act, the Controlling Authority has power to consider the terms and conditions of the agreement/settlement for grant of higher quantum of gratuity because the Act not only countenance the payment of gratuity higher than the minimum fixed under Act but also visualises and contemplates payment of higher gratuity. If for the purposes of computation of quantum of the amount of gratuity the terms of agreement or settlement are better than the Act, the employee is entitled for that benefit but the maximum statutory ceiling limit as provided under sub-section (3) of Section 4 of the Act cannot be reduced by mutual settlement or agreement. Therefore, the Appellate Authority was fully justified in holding that the employee after the amendment in sub-section (3) of Section 4 of the Act with effect from 24-5-1994 is entitled for the amended benefit and has rightly allowed the appeal. In view of the above, I do not see that the Appellate Authority has committed any illegality or any error of law apparent on the basis of the record. The petitioner could not make out any case for interference in the order passed by the Appellate Authority to invoke the extra-ordinary jurisdiction of this Court under Article 227 of the Constitution of India.

3. Accordingly I decline admission of this petition and the petition is dismissed in limine.

4. Writ Petition dismissed.