
(2011) 06 JH CK 0005

In the Jharkhand High Court

Case No : Writ Petition (L) No. 768 of 2011

Garden Reach Ship Builders and Engineers Ltd., Merin Diesel
Engine Plant, Ranchi

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 22-06-2011

Acts Referred:

Citation : (2011) 06 JH CK 0005

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.N. Patel, J.—The present writ petition has been preferred against the order passed by Appellate Authority i.e. Deputy Chief Labour Commissioner (Central), Dhanbad under the Payment of Gratuity Act, 1972 in Gratuity Appeal No. PGA (02)/ 2009-DY. CLC dated 27.12.2010 (Annexure- 4).

2. It is submitted by counsel for the petitioner that the respondent workman was serving with the petitioner with effect from 01.01.1971 and has been retired on 31.01.2007 and he has already been paid the amount of gratuity for the aforesaid period and the workman, after receiving the gratuity amount for the aforesaid period, has preferred application before the Controlling Authority under the Payment of Gratuity Act, 1972 for payment of outstanding amount of gratuity for the period running from 26.09.1969 to 31.12.1979 and for this period the amount of gratuity was not paid and, therefore, an application was preferred for payment of gratuity before the Controlling Authority, who has decided the dispute in favour of the present petitioner and an appeal was preferred by the respondent-workman before the Controlling Authority under the Payment of Gratuity Act, 1972 and the appeal is allowed and the amount of gratuity is ordered to be paid from the period 26.09.1969 to 31.12.1970 to the tune of Rs. 11,256/-. The Controlling Authority is awarded additional amount of gratuity of Rs. 11,256/- for the aforesaid period and therefore, the present petition has been

preferred mainly on the ground that the petitioner has never worked for the aforesaid period and there is no evidence on record and, therefore, the order passed by the Appellate Authority deserves to be quashed and set aside.

3. Having heard counsel for the petitioner and looking to the evidences on record, I see no reason to entertain this writ petition mainly for the reason that the respondent-workman has clearly established that he was actually worked for the period from 26.09.1969 to 31.12.1970. Moreover, over and above his deposition, there are also documentary evidence which are contemporary record, which is payment of insurance money for employees. No error has been committed by the Appellate Authority under the Payment of Gratuity Act, 1972 in analyzing those evidences on record and rightly, conclusion has been arrived at by the Appellate Authority that the Management shall pay the gratuity to the workman for the period from 26.09.1969 onwards. Looking to the reasons given by the Appellate Authority, there are absolutely just and proper reasons based upon the evidences on record and, therefore, I see no reason to interfere with the order passed by the Appellate Authority. The Management has also raised the plea that looking to the nature of work of the respondent-workman, it could not be said that the workman had worked regularly for the aforesaid period from 26.09.1969 to 31.12.1970. This argument has rightly been brushed aside by the Appellate Authority because it makes no difference under the Payment of Gratuity Act, 1972 whether the workman was employed as a casual labourer or the regular employee, if the fact is established that the workman has actually worked. Moreover, the amount of gratuity now is to be paid by the petitioner only Rs. 11,256/-and with all calculated interest etc., it never exceeding Rs. 20,000/- as on today.

4. In view of the facts and circumstances of the case, I see no reason to interfere with the order passed by the Appellate Authority and, hence, this writ petition is dismissed. Petition dismissed.