

(2001) 03 BOM CK 0100
In the Bombay High Court
Case No : O.O.C.J. W.P. No. 357 of 2001

General Education Academy	Vs	APPELLANT
Sudha Vasudeo Desai and Others		RESPONDENT

Date of Decision : 16-03-2001

Acts Referred:

Constitution of India, 1950 — Article 21, 39, 41, 43
Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act,
1977 — Section 2(17), 2(26)
Payment of Gratuity Act, 1972 — Section 2

Citation : (2001) 4 ALLMR 718 : (2001) 4 BomCR 103 : (2001) 89 FLR 1015 :
(2001) 2 LLJ 273 : (2001) 3 MhLj 308

Hon'ble Judges : R.J. Kochar, J

Bench : Single Bench

Advocate : K.M. Nayak, instructed by Salgaonkar and Co, for the Appellant;
Abhijeet S. Parulekar, for the Respondent

Final Decision : Dismissed

Judgement

R.J. Kochar, J.—In this petition the petitioner employers of the school teachers are denying the claim of gratuity to their retired teachers on the ground that they were not "the employees" as defined under the Payment of Gratuity Act, 1972 as they were not doing "any skilled, semi-skilled or unskilled, manual, supervisory, technical or clerical work"

2. There is no dispute over the facts. The petitioners are a recognised unaided primary/secondary School established in the year 1963 and managed by the Trust registered under the Bombay Public Trust Act, 1950. It is an admitted fact that the respondents school teachers were in employment of the school as shown below:

(i) Smt. Sudha Desai June 14, 1971 to March 20, 1997

(ii) Smt. Shanta Ranganathan November 12, 1979 to February 27, 1997

(iii) Smt. Aleyammo John June 9, 1969 to May 31, 1997

(iv) Shri B.M. Deshpande January 28, 1975 to December 20, 1998

3. There is also no dispute that their services were meritorious and they were loyal to the management throughout. In the evening of their life, after superannuation, they needed the reward of gratuity as a matter of right under the Payment of Gratuity Act and of course, not as a bounty and therefore they approached the petitioners for gratuity but they received a puzzling reply from the management that they were not entitled to gratuity as they were not "employees" under the Act,

4. They were, therefore, compelled to approach the forum provided under the Act for their claims. Neither the controlling authority nor the appellate authority accepted the contentions of the petitioners that the school teachers did not fall within the ambit of the definition of "employee" given under the Act. It was but natural as they were bound by the judgment of the Division Bench of this Court viz., *Premlata Digambar Rao Deo Vs. Principal, St. Philomine's Convent High School, Nasik Road and Others*, . Shri Parulekar, the learned advocate for the respondents teachers has placed heavy reliance on this judgment, which is the only judgment direct on this point. In para 13 the learned Judges have concluded as under at p. 1057 of LLJ:

"13. In our opinion, if the construction of definition of the word "employee" was required to be made with reference to the scheme of the object of the Act, it cannot be gainsaid that the object of the Act is to provide for a scheme for the payment of gratuity to certain categories of employees engaged in certain specified types of concerns. The gratuity is, in its essence, a payment in consideration of past services paid only at the end of the said service when the employment terminates. The definition of "employee" is wide enough to include a teacher indulging in teaching activities in an educational institution which in our view would be clearly covered by the definition of establishment"

5. The Division Bench has distinguished the Supreme Court's judgment in the case of *Miss A. Sundarambal Vs. Government of Goa, Daman and Diu and others*, , which was subsequently confirmed by another decision reported in *Miss A. Sundarambal Vs. Government of Goa, Daman and Diu and Others*, . The learned Judges have concluded:

"From the perusal of the above decisions, it is apparent that none of these decisions deal with the position of a teacher qua an educational establishment. These decisions cited by Mr. Bukhari are in respect of a "workman" in relation to an industry."

6. Shri Naik, the learned counsel for the petitioner has, however, submitted that the attention of the Division Bench was not drawn to the earlier judgment of the Supreme Court in the case of *Haryana Unrecognised Schools Association Vs. State of Haryana*, in which the Supreme Court has held since the teachers of an

educational institution are not employed to do any skilled or unskilled or manual or clerical work and therefore could not be held to be an employee u/s 2(i) of the Act, it is beyond the competence of the State Government to bring them under the purview of the Act by adding the employment in educational institution in the Schedule in exercise u/s 27 of the Act." Shri Naik has very heavily relied upon this judgment of the Supreme Court and has submitted that the judgment of the Division Bench has to be regarded as per incuriam and not binding on me. The Supreme Court has followed its decision in A. Sundarambal (supra) and has specifically quoted the following para while deciding the Appeal in the Miss A. Sundarambal Vs. Government of Goa, Daman and Diu and Others, :

"9. We are of the view that the teachers employed by educational institutions whether the said institutions are imparting primary, secondary, graduate or postgraduate education cannot be called as "workmen" within the meaning of Section 2(s) of the Act. Imparting of education which is the main function of teachers cannot be construed as skilled or unskilled manual work or clerical work. Imparting of education is in the nature of a mission or a noble vocation. A teacher educates children, he moulds their character, builds up their personality and makes them fit to become responsible citizens. Children grow under the care of teachers. The clerical work, if any they may do, is only incidental to their principal work of teaching."

7. It appears from the facts of the Haryana case that the State Government had issued a notification u/s 27 of the Minimum Wages Act, 1948 to fix minimum wages for the teachers. It is rather curious that the teachers' association challenged the said notification on the ground that the teachers were not falling in the definition of "employee" given in Section 2(i) of the Minimum Wages Act and the Supreme Court upheld their contention and struck down the said notification which was intended to protect them from exploitation. Shri Naik, submits that the definition of the employee in the Minimum Wages Act is part materia with that of the Payment of Gratuity Act and hence the ratio of the Haryana case would be directly attracted in our case. Shri Naik has also placed reliance on the following decisions of the other High Courts which have followed the dictum of the Haryana case:

(i) Ved Prakash Pathak Nirala Vs. State of Bihar and Others, ;

(ii) Green Wood School, Dehradun Vs. State of U.P. and others, .

8. Shri Naik has further tried to draw support from the judgment of the Supreme Court in the case of H.R. Adyanthaya Vs. Sandoz (India) Ltd., etc. etc., on the point whether, a Medical Representative is a "workman" u/s 25 of the Industrial Disputes Act, 1947. Shri Naik has however, not challenged the notification dated April 3, 1997 issued by the Central Government u/s 1(3)(c) of the Payment of Gratuity Act, 1972, specifying the educational institutions employing ten or more persons as a class of establishments to which the Act shall apply with effect from April 3, 1997. Shri Naik has categorically conceded that his clients are an

"establishment" as contemplated by the Act. He has confined his challenge only to the point that a teacher is not an employee as defined by Section 2(e) of the Act.

9. Shri Parulekar has supported the judgments of the authorities below and has submitted a compilation of the following judgments:

(i) Premlata Digambar Raodeo v. The Principal, St. Philomine's Convent High School and Ors. (supra);

(ii) Shri B.P. Hira, Works Manager, Central Railway, Parel, Bombay etc. Vs. Shri C.M. Pradhan etc., ;

(iii) Royal Talkies, Hyderabad and Others Vs. Employees State Insurance Corporation, ;

(iv) State of Punjab Vs. Labour Court Jullunder and Others, ;

(v) Principal, Bhartiya Mahavidyalaya and Another Vs. Ramakrishna Wasudeo Lahudkar, ;

(vi) Regional Provident Fund Commissioner, Jaipur Vs. Naraini Udyog and Others, ;

(vii) D.V. Kapoor Vs. Union of India and others, ;

(viii) Som Prakash Rekhi v. Union of India ;

(ix) A. Sundarambal v. Government of Goa, Daman and Diu and Ors. (supra);

(x) Children's Academy v. Indira Ramchandran and Anr. W.P. No. 749 of 1994 (S. H. KAPADIA, J);

(xi) Mohd. Zameeruddin Siddiqui Vs. Executive Council, A.M.U. and Another, ;

(xii) Tara Chand Chokdayat and Others Vs. State of Rajasthan and Another, ;

(xiii) Rajasthan Agricultural University Vs. Ram Krishna Vyas, ;

(xiv) Bhalachandra Krishnaji Kale Vs. The Karnataka State Road Transport Corporation, Bangalore and Others, ;

(xv) Nallamadan S. (D) by Anandammal L.R. Vs. Administrative Officer, Town Panchayat and Another, ;

(xvi) Rajendra Deva Vs. Addl. Labour Commissioner (Account), Kanpur and another, ;

(xvii) AIR 2000 SC 3513a ;

(xviii) Municipal Board and Another Vs. Salim Khan and Another, ;

(xix) State of Kerala and Others Vs. M. Padmanabhan Nair, ;

(xx) R. Kapur Vs. Director of Inspection (Painting and Publication) Income Tax

and Another, ;

(xxi) Arasuri Ambajimata Mandir Devsthan Trust Vs. Joitabhai A. Patel, Shramjivi General Workers Union, ;

Except the first judgment of our Division Bench which is discussed by me earlier, the other judgments are on the point of entitlement of gratuity of other classes of workmen/ Government servants etc. and not of a teacher under the Payment of Gratuity Act as "employee".

10. The judiciary like the society has also placed the teachers and the Education on a very high pedestal, which is very clear from the emphasised portion of A. Sundarambal's judgment (*supra*). Education is held to be a mission or a noble vocation while a teacher is regarded as a character moulder and personality builder of the children, and maker of responsible citizens out of children. Education has been held to be not a trade, a profession or a business. I am however not prepared to condemn or undermine or underrate the trade, profession or business as they are also the veins of our economy and the foundation of our material progress. They are equally important along with education for the overall prosperity of the nation. They are all interdependent and not independent of each other. In my humble opinion we cannot generalise anything. It is not every trade, business or profession by itself is dirty. There are millions and billions employed in trades, business and professions. There are good and bad people everywhere as there are ideal teachers as well as debaucheries ones. From pour-full advertisements in news papers has the education not become trade? I am therefore not one of those who would generalise to adorn or condemn anyone outright. We are living our mundane life with virtues and vices.

11. Let us now consider whether a teacher satisfies the definition of an "employee" as given under the Payment of Gratuity Act, 1972 which reads as under:

"Employee" means any person (other than an apprentice) employed on wages, in any establishment, factory, mine, oilfield, plantation, port, railway company or shop, to do any skilled, semiskilled or unskilled, manual, supervisory, technical or clerical work, whether the terms of such employment are express or implied, (and whether or not such person is employed in a managerial or administrative capacity, but does not include any such person who holds a civil 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."

Shri Naik has strenuously argued that a teacher is not doing any "skilled" work to fall in the definition of an employee given in the Payment of Gratuity Act. I am not able to agree with the submissions of the learned counsel. No doubt, the Supreme Court has in the case of A. Sundarambal has held a teacher not a workman employed to do any "skilled...." work in an industry in the context of employment in an industry. In the later judgment of the Haryana case it is held

by the Supreme Court that a teacher is not employed as employee to do "a skilled..." work in a school which cannot be added as an "employment" in the schedule of the Minimum Wages Act to protect the teachers as a class as they were not a "sweated labour" class at the instance of the teachers themselves. It was a case where the employment of teachers was brought within the scheduled employment of the Act u/s 27 notification. The competence of the State Government to do so was questioned on the ground that a teacher is not an employee of an educational institution to do any ""skilled... work"" and therefore he could not be held to be an "employee" u/s 2(i) of the Minimum Wages Act and therefore it was held to be beyond the competence of the State Government to bring the teachers under the purview of the Act by adding the employment in educational institution in the schedule u/s 27 of the Act. The aforesaid judgments are tried to be applied to the present case which is under the Payment of Gratuity Act on the basis that the definition of employee under this Act is more or less similar and that the ratio is applicable to the extent that the teacher is not doing "any skilled ... work" while teaching. And therefore, the respondent teachers are not entitled to get gratuity, says the counsel.

12. Shri Parulekar has drawn my pointed attention to the dictionary meaning of the word "skill" from the RANDOM HOUSE DICTIONARY of the English Language and has submitted that the skill is to be considered in the context of the work, job or employment. It is to be measured, weighed or assessed from the angle of the job performance and not in vacuum. According to the learned Advocate every job requires certain amount of skill to achieve the required results. I agree with Shri Parulekar that the noun SKILLED is not confined only to the category of workmen but it must be found in every field, profession, occupation, trade, business or vocation. A housewife must possess skill in the kitchen and a surgeon also has to be skilful in the operation theatre. Similarly an advocate would fail in his profession if he does not acquire a skill to present his client's case effectively and even a judge would fail in the mission of doing justice if he does not possess the skill of distinguishing the case in his hand from the mesh of precedents to do justice in the case in hand. Skill is the foundation of success in every walk of life. The dictionary meaning of skill is:

- (i) The ability coming from one's knowledge, practice, aptitude etc., to do something well.
- (ii) Competent excellence in performance; expertness, dexterity;
- (iii) A craft, trade or job requiring manual dexterity or special training in which a person has competence and experience
- (iv) Understanding, discernment

(RANDOM HOUSE DICTIONARY)

Even the OXFORD DICTIONARY gives the same meaning of skill i.e. practised ability, expertness. In my opinion a teacher must be a person competent in his

performance in the class room. Needles to say that excellence in performance would come from his knowledge, practice, aptitude to teach better every time. For ability and skill there is no school. Both of them spring from knowledge, practice and aptitude. And I am sure that the Supreme Court in both the cases of A. Sundarambal and Haryana Unrecognised School Association did not contemplate and imply even remotely while holding that a teacher is neither a workman under the Industrial Disputes Act nor an employee under the Minimum Wages Act, that a teacher need not possess knowledge, practice and aptitude to teach skilfully any subject given to him for teaching.

13. While interpreting the definition of employee under the Payment of Gratuity Act we cannot forget the fact that a teacher at the fag end of his noble mission of educational career, he and his equally old wife, need very badly some old age stick as a support to live the rest of life. Certainly, we will have to place in the backdrop of our mind Articles 39(e) and 41 of the Constitution of India, in the context of interpreting this beneficial piece of legislation enacted to realise the goal of these Articles, which read as under:

"39(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations instituted to their age or strength;

41. Right to work, to education and to public assistance in certain cases. The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.""

Though in the Chapter IV of the Directive Principles of State Policy, the Chapter and the Principles have become the Fundamental Rights of those for whom the Chapter was devoted. To say the least, this Chapter has at least acquired flavour of the Chapter III. In the flood light of these provisions we have to interpret the term ""employee" given in the Payment of Gratuity Act, very liberally so that the old age of our citizen teachers is provided for and is protected reasonably and the underlying principles of the aforesaid Articles are not defeated. We must safeguard these pillars of our society from bending and breaking under the burden of starvation in their old age. Any other narrow and pedantic manner of interpretation would expose as hollow, the tributes paid to this avocation being a noble mission and the teachers as character builders of the future citizens of India, only to be a dry and lip service which is bound to get evaporated in the air. There is no substitute for old age pension or gratuity.

14. An employee as originally defined by the Payment of Gratuity Act had restricted scope on par with the definition of a "workman" under the Industrial Disputes Act. It has been amended and presently as it stands, the restrictive elements have been removed. Therefore, we must remember that the scope of the definition has been enlarged by the Legislature from time to time to confer

this old age benefit to the maximum possible class of the employed persons. The original ceiling on monthly wages is totally removed to cover the entire workforce of an establishment and even the total limit of the amount of gratuity has undergone great change. This is a very clear indication of the Legislature that it is determined to achieve the goal mandated in the aforesaid directive principles for the citizens of old age. We therefore, cannot curtail or restrict the coverage to deny this old age benefit by wholly excluding the teachers from the definition of the term "employee". By the last 1984 amendment the definition has been unusually widened to include even the categories of managerial and administrative capacity which have always been excluded from the definitions under all the other Labour Laws. Only a category of civil servants and all those who have the protection of Payment of Gratuity under any other Act or rules are excluded by the Act. The umbrella of the Payment of Gratuity Act is spread all over the working class irrespective of the colour of their collar, blue, white or golden. In this view of the matter it is just impossible for me to hold that a teacher employed in a school is not an employee as defined by the Payment of Gratuity Act. This definition is totally different from the definition of the workman under the Industrial Disputes Act and the employee under the Minimum Wages Act in the length and breadth of the parameters which is also a very important and crucial factor in the process of the interpretation of the term "employee" under the Payment of Gratuity Act. It will not be wrong to say that the definition of employee is only illustrative and not exhaustive. It is all inclusive of all those who need the benefit of gratuity on their retirement. It is so intended to achieve or attain the constitutional goal enshrined in the Directive Principles of our socialist and social justice-oriented Constitution. Neither celebration of Teachers Day annually, nor any number of accolades, awards or acclamation of the teachers, that they are missionaries in the noble cause of education, would take the place of bread and butter for them. The bestowed good words do not buy even 10 grams of sugar needed for the milk for their children. Howsoever high sounding showers of praise for their essential services to the society, after retirement they need gratuity more than the certificates and the wordy homage to their work which cannot solve their post-retirement problems. And therefore, what they need first is the gratuity to buy some food for their survival. I do not know whether a man cannot live with bread alone but I certainly know that a man cannot live without bread. A hungry teacher can never fulfil the desire for good education. Even a missionary needs fire in his belly to keep his spirit high.

15. There is another dimension in the matter of gratuity as an old age benefit to be provided for after retirement. Article 43 protects and assures "frill enjoyment of leisure and social and cultural opportunities....." Let us read this Article 43 for understanding its true meaning:

"43. Living wage, etc., for workers.--The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and

cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or Co-operative basis in rural areas."

In discharge of its duty under this Article the State has enacted the Payment of Gratuity Act to secure "full enjoyment of leisure" after retirement and to further secure social and cultural opportunities for all those who retire from their active service. Even the old people need to have "secured leisure" and this aim cannot be achieved if livelihood in the form of gratuity is not provided for. We cannot defeat this objective achieved by the Legislature by narrowly interpreting the term "employee," under the Payment of Gratuity Act to exclude the teachers class as a whole. We cannot deprive them of the protection given by the Legislature to their right to life after their retirement under Article 21 of the Constitution of India by the process of interpretation of the term "employee" in a narrow sense which would not achieve the object of the Act and also the Constitutional provisions. The Supreme Court has once again reminded all of us what is contained in the Chapter 4 of the Constitution of India in the case of *M.R.F. Ltd. Vs. Inspector Kerala Govt. and Others*, in the following words at p. 292 of LLJ:

"16. The Directive Principles of State policy are not enforceable but are nevertheless fundamental in the governance of the country and have to be applied by the State in making the laws. They are essential articles of faith of the country and as such the Legislature, the Executive and the Judiciary have to follow them unless there is likely to be an infringement of any express provision of the Constitution. They have to be regarded as the "Wisdom" of the nation manifested in the "paramount" law of the country."

16. In its onward march to achieve the Constitutional goal of socialism and social justice the Supreme Court has in its recent Judgment of *Secretary, H.S.E.B Vs. Suresh and Others etc. etc.*, exerted as in the following words at p. 1087 of LLJ:

"1. In short, this Court has equated the security clause in the Constitution so as to mean that the people of the country ought to be secured of socio-economic justice by way of a fusion of Fundamental Right and Directive Principles of State Policy. As a matter of fact this Court has been candid enough on more occasions than one and rather, frequently to note that socialism ought not to be treated as a mere concept or an ideal, but the same ought to be practised in every sphere of life and be treated by the law Courts as a constitutional mandate since the law Courts exists for the society and required to act as a guardian angel of the society. As a matter of fact the socialistic concept of society is very well laid in Part III and Part IV of the Constitution and the Constitution being supreme, it is a bounden duty of the law Courts to give shape and offer reality to such a concept."

17. If I were to interpret the term "employee" to exclude the teachers therefrom to deny them the bread for their evening of life, I would be wholly failing to the Constitution and also betraying the above philosophy so well expounded by the

Supreme Court. Taking any other view would be allowing to foil the endeavour of the State to materialise the Directive Principles while governing the people and permitting the lawyers to purloin the Constitution as put by the Chief Architect of the Nation, Shri Jawaharlal Nehru:

"This magnificent Constitution that we have framed was later kidnapped and purloined by the lawyers."

It must be noted that the Supreme Court has not allowed the Lawyers to kidnap the Constitution and has protected it very zealously which is clearly reflected in the following para of the Judgment in the case of G.B. Pant University of Agriculture and Technology, Pantnagar, Nainital Vs. State of Uttar Pradesh and Others, :

"10. The Society shall have to thrive: The Society shall have to prosper and this prosperity can only come in the event of there being a wider vision for total social good and benefit. It is not bestowing any favour to anybody but it is a mandatory obligation to see that the Society thrives. The deprivation of the weaker section we had for long, but time has now come to cry halt and it is for the law Courts to rise up to the occasion and grant relief to a seeker of a just cause and just grievance. Economic justice is not a mere legal jargon but in the new millennium, it is the obligation for all to confer this economic justice to a seeker; Society is to remain, social justice is the order and economic justice is the rule of the day. Narrow pedantic approach to statutory documents no longer survives. The principles of corporate jurisprudence is now being imbibed on the industrial jurisprudence and there is a long catena of cases in regard thereto-the law thus is not in a state of fluidity since the situation is more or less settled. As regards interpretation widest possible amplitude shall have to be offered in the matter of interpretation of statutory documents under industrial jurisprudence. The draconian concept is no longer available. Justice social and economic, as noticed above ought to be made available with utmost expedition so that the socialistic pattern of the society as dreamt of by the founding fathers can thrive and have its foundation so that the future generation do not live in the dark and cry for social and economic justice."

18. I, therefore, in the facts and circumstances of this petition and the provisions of the Payment of Gratuity Act, hold and declare that the definition of "employee", Section 2(e) of the Payment of Gratuity Act includes and covers in its compass the class of teachers employed in an establishment of a school and are therefore entitled to the benefits of payment of gratuity in accordance with provisions of the Act. Moreover, I am bound by the judgment of our Division Bench in the case of Premlata (supra) which is directly governing the point in this petition.

19. I am conscious of the aforesaid decisions of the Supreme Court i.e. A. Sundarambal and the Haryana Unrecognised Schools Association. I am bound by those decisions that a teacher is not a workman under the I.D. Act and that the

teacher is not an employee employed to do any "skilled or ..." under the Minimum Wages Act. The case of a teacher in the widest possible and peculiarly enlarged and amended definition of "employee" given under the Payment of Gratuity Act stands on different footing than those of narrowly defined "workman" and "employee" before the Supreme Court. Besides, Premrata's judgment of our Division Bench is directly on the point under the Payment of Gratuity Act holding a teacher "an employee" under the Act.

20. But still that is not the end of the matter and the petitioners cannot succeed for one more equally strong reason. The State of Maharashtra has enacted a Special Statute which has received the assent of the President on March 20, 1978, titled as "The Maharashtra Employees of Private Schools (Conditions of Service) Regulations Act, 1977" to regulate recruitment and conditions of service of employees in certain private schools in the State with a view to provide such employees security and stability of service to enable them to discharge their duties towards the pupils and their guardians in particular, and the institution and the society in general, effectively, and efficiently". The Preamble further notes that, "... it is further expedient in the public interest to lay down the duties and functions of such employees with a view to ensuring that they become accountable to the Management and contribute their mite for improving the standard of education. To achieve this object the State Legislature has enacted this Act and has made the necessary provisions. There is no dispute that the petitioner school is also governed by this Act. This Act is a Special Statute for the benefits of the School employees, School management, the society and the standard of education. The provisions of this Act also will have to be simultaneously read with the provisions of the Payment of Gratuity Act as mutually supplemental to each other to achieve the object of the enactments and the constitutional goal mandated in its Chapter 4. This Act has given definitions of "employee" and "Teacher" as under:

"Section 2(17):

Employee means any member of the teaching and non- teaching staff of a recognised school.

Section 2(26):

Teacher means a member of the teaching staff, and includes the Head of a School."

21. In my opinion since the State Legislature has legislatively defined and held "a teacher" to be an "employee" of a recognised school, as a member of the teaching staff, we have to incorporate this definition and read it within the definition of the employee given under the Payment of Gratuity Act without anything more as to whether the teacher-employee is employed to do any "skilled... work" or not. The moment it is proved or accepted that a person is employed as teacher and is a member of the teaching staff of a recognised school, he becomes deemed to be an employee under the Payment of Gratuity

Act entitled to get gratuity in accordance with the provisions of the Payment of Gratuity Act. And if we read both the Acts together it is beyond the shred of any doubt that the Payment of Gratuity Act would per se apply to the employees defined under the State Act if all other conditions are satisfied.

22. I, therefore, hold and declare that the Payment of Gratuity Act applies to all the "employees" and "the teachers" of a recognised school governed by the State Act. The respondents teachers are therefore entitled to receive their gratuity from the petitioners as ordered by the appellate authority with interest. @ 15% p.a. at the rate of compound interest in accordance with the Notification S.O. 1032 (E) issued by the Central Government u/s 8 of the Payment of Gratuity Act, from the date on which gratuity became payable to the respondents teachers. The petitioners shall comply with this order in full terms within four weeks from today. The respondents-teachers shall be entitled to withdraw the whole amount of gratuity from the appropriate authority with which the petitioners have deposited the amount of gratuity u/s 7(7) of the Act, with accrued interest, if any.

23. The writ petition fails. Rule is discharged. In the circumstances of the present case there will be no order as to costs.

24. Issuance of certified copy of this order is expedited. All concerned shall act on an ordinary copy of this order authenticated by the Associate of this Court.

25. Shri Naik prays for stay of this order. In the facts and circumstances that the teachers are deprived of their gratuity from 1997/1998 and since they have succeeded before 3 Fora, it will not be in the interest of justice to stay this order any more. I, therefore, refuse to stay the Order. Let the School test the law but not at the cost of the old teachers.