
(2010) 08 JH CK 0073
In the Jharkhand High Court

Madan Prasad Sinha

APPELLANT

Vs

Bharat Coking Coal Ltd. and Others

RESPONDENT

Date of Decision : 18-08-2010

Acts Referred:

Payment of Gratuity (Central) Rules, 1972 — Rule 7(1)

Citation : (2010) 08 JH CK 0073

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Amareshwar Sahay, J.—Heard the parties.

2. The claim of the petitioner in this writ application is to direct the respondents, particularly Central Coalfields Limited to make payment of Gratuity amount from the Year, 1953 which has been rejected by order at Annexure-6 passed on 17th January, 2005, pursuant to the order passed by this Court in W.P.(S) No. 6249 of 2004 on 7th December, 2004 (Annexure-5). The main ground on which the petitioner claims for payment of Gratuity amount from the Year, 1953 is that he was paid the amount of CMPF calculating it from 1st October, 1953, but the amount of Gratuity has been paid to him by calculating from 12th November, 1964. The petitioner has tried to make out a case that he was initially appointed on 1st October, 1953 and, therefore, the Gratuity has to be counted from the date of his initial appointment i.e. from 1st October, 1953.

3. From perusal of the impugned order at Annexure-6, dated 17th January, 2005, it appears that the claim of the petitioner has been rejected on the following grounds:

4. That the petitioner's was initially appointed on 12th January, 1964 and not on 1st October, 1953. According to the petitioner, he was initially appointed at New Kendriadih Colliery, but no such paper/evidence could be produced before the authorities to establish the fact that he was initially appointed at New Kendriadih

Colliery in the Year, 1953.

5. The second ground for rejection of the claim of the petitioner is that in the statutory form-B Register maintained under the Mines Rules, the date of the appointment of the petitioner has been mentioned as 12th November, 1964 and the said Form-B Register contained the signature of the petitioner also.

6. The third ground for rejection of the claim of the petitioner is that in the Year, 1987, the service excerpts were given to the petitioner, in order to verify the correctness of the entries in the service record so that in case any entry was found to be incorrect then the employee could request to the employer for necessary correction but the petitioner returned those excerpts to the employer accepting that the entries were correct in the service records showing the date of appointment to be 12th November, 1964.

7. The other ground for the rejection of the claim of the petitioner is that after superannuation, the petitioner filed an application for payment of Gratuity in the Statutory Form under Rule 7(1), the Payment of the Gratuity Act, and in that form he himself mentioned his date of appointment as 12th November, 1964.

8. Only because the CMPF has made the payment of CMPF amount calculating the same from the Year, 1953, that does not mean that the entry in the service record of the petitioner maintained by the office of his employer should be presumed to be wrong.

9. I do not find any illegality or infirmity in the impugned order, passed by the project officer, rejecting the claim of the petitioner. No case, at all is made out for any interference by this Court.

10. Accordingly, having found no merit, this writ petition is hereby, dismissed.