

**(2012) 09 MP CK 0320**

**In the Madhya Pradesh High Court**

**Case No : Writ Petition No. 14375/12 (O)**

Madhaya Pradesh Khadi Gram Udyog Board

APPELLANT

Vs

Radha Krishana Sharma

RESPONDENT

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**Date of Decision : 18-09-2012**

**Acts Referred:**

Constitution of India, 1950 — Article 227

Payment of Gratuity Act, 1972 — Section 7(3a)

**Citation : (2012) 09 MP CK 0320**

**Hon'ble Judges : U.C. Maheshwari, J**

**Bench : Single Bench**

**Advocate : Vaibhav Tiwari, for the Appellant;**

**Final Decision : Dismissed**

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## **Judgement**

U.C. Maheshwari, Judge

1. He is heard on the question of admission. The petitioner-Board has filed this writ petition under Article 227 of the Constitution of India for quashment of the order dated 8.5.2012, passed by the appellate Authority (Under the Payment of Gratuity Act, 1972) (In short "the Act") of Deputy Labour Commissioner Bhopal, in Gratuity Case No. 16/11 (Annexure-P-1) whereby, dismissing the appeal of the petitioner, the order dated 30.4.2011 passed by the Controlling Authority constituted under the Provisions of Payment of Gratuity Act 1972, Bhopal Division Bhopal, in Gratuity Case No. 169/05 directing the authorities of the petitioner to pay the arrears of Gratuity to the respondent Rs. 85288/-, which was not paid earlier within the prescribed period along with the interest at the rate of 10% per annum in accordance with the provision of Section 7(3-a) of the Act, has been affirmed.

2. Petitioner's counsel after taking me through the averments of the petition as well as the papers placed on the record argued that the controlling Authority or the appellate Authority, could not consider the prayer of the respondent to direct

the petitioner to pay the abovementioned remaining sum of the Gratuity after lapse of many years. In continuation he said that, the entire sum of the Gratuity was paid by the petitioner to the respondent within time and thereafter, nothing was arrears, but contrary to the provisions by passing the impugned order, the petitioner has been directed to pay the remaining sum of Gratuity to the respondent. He also argued that the controlling Authority was not having any authority to pass the order for the Gratuity more than Rs. 1 lakh. In such premises, the impugned orders are not sustainable. He also said that in the available scenario, there was no fault on the part of the petitioner to pay the sum of arrears. In such premises, the subordinate authority has committed error in directing the petitioner to pay interest u/s 7(3-a) of the act. In addition, by referring the order dated 4.7.1996 (Annexure-P-4), issued by the State of M.P. Gram Udyog Board, said that, taking into consideration the entire circumstances that the requisite sum were paid to the respondent and thereafter, nothing was to be paid. According to this, the amount of Gratuity could not be given to the respondent more than Rs. 1 Lakh and prayed for admitting and allowing this petition.

3. Having heard the counsel, keeping in view his arguments, I have carefully gone through the aforesaid order Annexure-P-4, as well as the order of the controlling Authority Annexure-P-2 and the impugned order Annexure-P-1. On going through the order Annexure-P-1 and Annexure-P-2, it is apparent that at the initial stage the respondent was not given any sum of the Gratuity for which he was entitled. Initially he was given only Rs. 35,288/- and after taking into consideration the tenure of the service of the respondent, the controlling Authority has come to the conclusion that the respondent was entitled to the sum of Rs. 1,20,576/- as his Gratuity and by adjusting the sum paid to the respondent earlier, directed the petitioner to pay the remaining sum of Rs. 85,288/- and also taking into consideration that such remaining sum was not paid to the respondent within the prescribed period as provided under the Act, then by virtue of Section 7(3-a) of the Act, the petitioner was also directed to pay the interest at the rate of 10% per annum to the respondent as per his entitlement and the same was quantified to Rs. 78,180/- and directed the petitioner to pay the same within 30 days. On filing the appeal, taking in to consideration all the objections as taken by the petitioner's counsel before this Court by dismissing the appeal of the petitioner, the order of the controlling authority has been affirmed. The impugned order Annexure-P-1, has been passed in consonance with the factual matrix of the matter as well as the existing legal position and in such premises, I have not found any perversity, illegality, infirmity or anything against the propriety of law in the order impugned. Consequently, this petition being devoid of any merit is hereby dismissed at the initial stage of motion hearing.