

(2019) 07 PAT CK 0251

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 19145 Of 2017

Ramakrishna Mission Sevashrama Through

APPELLANT

Vs

State Of Bihar Through The Principal Secretary And Ors

RESPONDENT

Date of Decision : 11-07-2019

Acts Referred:

Payment Of Gratuity Act, 1972 — Section 2(a)

Citation : (2019) 07 PAT CK 0251

Hon'ble Judges : Shivaji Pandey, J

Bench : Single Bench

Advocate : Shakti Suman Kumar, Ajay Kr. Rastogi, Shilpikesh, Dr. Rajesh Kumar Singh, Anant Kumar Bhaskar, Sanjay Kumar Jha

Final Decision : Allowed

Judgement

1. Heard learned counsel for the petitioner and learned counsel for the State.
2. In this case, the petitioner is challenging the order dated 16.10.2017 passed by the Deputy Labour Commissioner-cum- Controlling Authority under the Payment of Gratuity Act, Tirhut Division, Muzaffarpur, in Gratuity Case No. 02 of 2013, whereby and whereunder direction has been given to the petitioner to pay an amount of Rs.45,326.80/- along with interest at the rate of 10% per annum.
3. Learned counsel for the petitioner instead of challenging the case on merit, has confined his argument that the order passed by the Deputy Labour Commissioner-cum-Controlling Authority under the Payment of Gratuity Act, Tirhut Division, Muzaffarpur, in Gratuity Case No. 2 of 2013 is without jurisdiction as the petitioner is a body created under the statutory provision having its establishment in the entire part of the country i.e. more than one State and placed reliance on the Definition of appropriate Government, mentioned in Section 2(a) of the Payment of Gratuity Act, 1972, which is as follows:-

"2.(a) "appropriate Government" means,-

i) in relation to an establishment-

(a) belonging to, or under the control of, the Central Government,

(b) having branches in more than one State,

(c) of a factory belonging to, or under the control of, the Central Government,

(d) of a major port, mine, oilfield or railway company, the Central Government,

(ii) in any other case, the State Government;"

4. Learned counsel for the petitioner further submits that the authority created under the Payment of Gratuity Act by the State Government does not have jurisdiction, but the authority created by the Central Government is the appropriate authority to decide the issue of entitlement of gratuity as the definition of appropriate Government with respect to the establishment, it has been mentioned that (a) the establishment belong to or under the control of the Central Government, (b) having its branches in more than one State, (c) of a factory belong to or under the control of the Central Government and

(d) of a major port, mine, oilfield or railway company, Central Government will be the appropriate Government and with respect to others the appropriate Government will be the State Government.

5. Admittedly, the petitioner having branches of the establishment more than one State, hence the appropriate Government to adjudicate the dispute with regard to entitlement of gratuity involved in the present case is the Central Government.

6. Learned counsel for the respondents did not dispute the submission of the petitioner that in the present case appropriate Government will be the Central Government as the petitioner has more than one branches in more than one State.

7. On consideration of definition of appropriate Government mentioned in Section 2(a) of the Payment of Gratuity Act, 1972, it is very much clear that in the present case the appropriate Government is the Central Government not the State Government and the authority created by the Central Government for the purposes of payment of Gratuity Act is the appropriate authority to adjudicate the dispute.

8. In such view of the matter, the order dated 16.10.2017 passed by the Deputy Labour Commissioner-cum-Controlling Authority under the Payment of Gratuity Act, Tirhut Division, Muzaffarpur, in Gratuity Case No. 02 of 2013, is set aside. Liberty is given to the private respondents to approach the authority created by the Central Government for the purposes of payment of Gratuity, if they so like. Equally, this petitioner is also given liberty to raise all the points as available to it before the competent authority.

9. With the aforesaid observations and directions, this writ petition is allowed to the above extent.