(2016) 06 KAR CK 0044

In the Karnataka High Court

Case No : W.P.No. 9461 of 2015 (L.-PG)

T. Prashanth Shetty APPELLANT

Vs

Chairman and Managing Director RESPONDENT

Date of Decision : 07-06-2016

Acts Referred:

Citation : (2016) 3 AirKarR 484 : (2016) 3 CLR 610 : (2016) 4 KCCR 561 : (2016) LIC 3883

Hon'ble Judges : Aravind Kumar, J.

Bench : Single Bench

Advocate : Sri S. Vittal Shetty, Advocate, for the Appellant; Sri Abhilash Raju for Sri Sundaraswarny and Ramdas, Advocates, Sri Krishna S. Dixit, ASG, for the Respondent

Final Decision : Allowed

Judgement

Aravind Kumar, J.—This writ petition has been listed for hearing on interlocutory application-I.A.No.1/2016 for early hearing and same is taken up for final disposal by consent of learned Advocates appearing for the parties and they have addressed their arguments extensively.

2. Facts in brief which has led to filing of this writ petition can be crystallized as under:

Petitioner joined the services of respondent - Bank on 02.06.1975 and on attaining the age of superannuation, he retired from service on 31.07.2013. On account of non-payment of gratuity, petitioner filed an application under Section 7 of the Payment of Gratuity Act, 1972 (for short ''Act'') before the Controlling Authority claiming gratuity amount of 10,00,000/- together with interest @ 12% p.a. on the said amount of gratuity payable from 01.08.2013 till the date of actual payment vide Annexure-A. Said claim was resisted to by the employer by filing detailed statement of objections on 05.08.2014 - Annexure-B and evidence also came to be tendered. After considering rival contentions, Controlling

Authority by order dated 23.12.2014 - Annexure-F has deferred consideration of the application filed by the employee by reserving liberty to file the claim on conclusion of criminal prosecution pending against him before CBI Court and as such, proceedings came to be closed.

3. Before the Controlling Authority, respondent-Bank contended that on account of criminal prosecution was pending against the applicant-employee, which was on account of criminal conspiracy said to have been hatched by the applicant-employee during the period 10.06.2002 to 08.05.2004 while he was working as Assistant Manager, Lamington Road Branch, Hubli and said employee along with the then Branch Manager had sanctioned loan to M/s. Pooja Roadlines and M/s. Tamilnadu Agro Services, resulting in loss of Rs. 1,72,99,805/- to the Bank and corresponding wrongful gain to the borrowers, as a ground to withhold the gratuity payable, as such, it had sought for dismissal of the application. Said contention came to be accepted by the Controlling Authority by impugned order and said order would indicate that Controlling Authority has virtually deferred consideration of the application for grant of gratuity, which is impugned in the present writ petition.

4. It is the contention of Mr. Vittal Shetty, learned Advocate appearing for petitioner that Controlling Authority erred in law in not considering the law laid down by the Hon''ble Apex Court in the case of Jaswant Singh Gill v. Bharat Coking Coal Ltd. & others reported in (2007) 1 SCC 663 though pressed into service and as such, filing an appeal against an order of Controlling Authority would be an exercise in futility and it would not serve any purpose since issue involved relates to applying the law laid down by Apex Court to the facts and circumstances of the present case and this Court can exercise power under Article 226 of the Constitution of India, by allowing the writ petition and directing the respondent- Bank to pay gratuity amount of Rs. 10,00,000/- which has been withheld, with simple interest @ 10% p.a. from 01.08.2013 till date of payment, or in the alternate, he prays for directing the Controlling Authority to determine the amount of gratuity and interest payable to the petitioner by respondent-Bank. On these grounds, he seeks for quashing of the impugned order passed by the Controlling Authority.

5. Per contra, Sri. Abhilash Raju, learned Advocate appearing for respondent-Bank would support the impugned order by contending that extant Regulations governing the issue namely, Regulation 46(2) of Vijaya Bank (Employees) Pension Regulations, 1995 enables the employer to withhold payment of gratuity to an employee until conclusion of the proceedings initiated against him and petitioner would be paid gratuity only on conclusion of the proceedings in favour of petitioner and recoveries to be made from such employee would be adjusted against the amount of gratuity payable to such employee. Hence, by very heavily replying upon Regulation 46(2), he would support the impugned order.

5.1 He would also rely upon the judgment of Madras High Court in M. Azeez v. Indian Bank (W.P.No.8450 of 2012 decided on 11.04.2012) to contend that judgment of Jaswant Singh Gill''s case relied upon by petitioner has been rightly not followed in the context of the extant Regulations of Indian Bank which is similar and identical to the Regulations of the respondent-Bank herein and as such, judgment of Madras High Court is clearly applicable to the facts on hand and same had been applied by Controlling Authority to defer consideration of petitioner''s application.

5.2 By way of reply, he would hasten to add that writ petition itself is not maintainable since petitioner has alternate remedy of appeal under Section 7(7) of the Payment of Gratuity Act, 1972. Hence, he prays for rejection of the writ petition at the threshold on the ground of availability of alternate remedy.

6. Having heard the learned Advocates appearing for parties and on perusal of the records, this Court is of the considered view that following point would arise for consideration:

"Whether petitioner would be entitled to seek for payment of Gratuity from first respondent Bank during the pendency of criminal proceedings or a judicial proceedings?

Or

Whether first respondent - Bank is entitled to withhold payment of gratuity to petitioner on his attaining age of superannuation or on account of retirement from service by voluntary retirement by virtue of Regulation 46(2) of Vijaya Bank (Employees'') Pension Regulations. 1995?"

7. Since the learned Advocate appearing for respondent has raised the issue of maintainability of writ petition, let me deal with the same at the first instance. There cannot be any straight jacket formula for this Court from exercising extraordinary jurisdiction under Article 226 of the Constitution of India and if an alternate remedy is available to the writ petitioner as the case may be, that would be a good ground for this Court to refuse to entertain the claim on merits.

8. The very availability of an alternate remedy would not oust the jurisdiction of High Court from exercising power under Article 226 of the Constitution of India and alternate remedy is not a bar for exercise of jurisdiction under Article 226 of the Constitution of India and the authoritative pronouncements of the Apex Court on this issue are as under:

1) (2003) 2 SCC 107, Harbanslal Sahnia and Anr. v. Indian Oil Corpn. Ltd. and Ors.

"7. So far as the view taken by the High Court that the remedy by way of recourse to arbitration clause was available to the appellants and therefore the writ petition filed by the appellants was liable to be dismissed is concerned, suffice it to observe that the rule of exclusion of writ jurisdiction by availability of an alternative remedy is a rule of discretion and not one of compulsion. In an appropriate case, in spite of availability of the alternative remedy, the High Court may still exercise its writ jurisdiction in at least three contingencies: (i) where the writ petition seeks enforcement of any of the fundamental rights; (ii) where there is failure of principles of natural justice; or (iii) where the orders or proceedings are wholly without jurisdiction or the vires of an Act and is challenged. See Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and Ors., (1998) 8 SCC 11 The present case attracts applicability of first two contingencies. Moreover, as noted, the petitioners'' dealership, which is their bread and butter, came to be terminated for an irrelevant and non-existent cause. In such circumstances, we feel that the appellants should have been allowed relief by the High Court itself instead of driving them to the need of initiating arbitration proceedings."

2) (2001)10 SCC 445, Shashi Gaur v. NCT of Delhi and others.

"8. In this view of the matter, we are persuaded to take the view that under sub-section (3) of Section 8 of the Act, an appeal is provided against an order not only of dismissal, removal or reduction in rank, which obviously is a major penalty in a disciplinary proceeding, but also against a termination, otherwise except, where the service itself comes to an end by efflux of time for which the employee was initially appointed. Therefore, we do not find any infirmity with the order of the High Court not entertaining the writ application in exercise of its discretion though we do not agree with the conclusion that availability of an alternative remedy ousts the jurisdiction of the Court under Article 226 of the Constitution."

3) AIR 1977 SC 1132, State of U.P. and others v. M/s. Indian Hume Pipe Co. Ltd.,

"4. Lastly, it was feebly argued by Mr. Manchanda that the High Court ought not to have entertained the writ petition and should have allowed the assessee to avail of the remedies provided to him under the U.P. Sales. Tax Act, particularly when questions of fact had to be determined. In the instant case, the question as to what is the true connotation of the words "sanitary fittings" and whether the hume pipes manufactured and sold by the respondent were sanitary fittings within the meaning of that expression was a question of law and since the entire material on the basis of which this question could be determined was placed before the Sales Tax Officer and it pointed in one and only one direction, namely, that the hume pipes were not sanitary fittings and there was nothing to show otherwise, the High Court was justified in entertaining the writ petition. Moreover, there is no rule of law that the High Court should not entertain a writ petition where an alternative remedy is available to a party. It is always a matter of discretion with the Court and if the discretion has been exercised by the High Court not unreasonably or perversely, it is settled practise of this Court not to interfere with the exercise of discretion by the High Court. The High Court in the present case entertained the writ petition and decided the question of law arising in it and in our opinion rightly. In these circumstances, therefore, we would not be justified in the interest of justice in interfering in our jurisdiction under Article 136 of the Constitution to quash the order of the High Court merely on this ground after having found that the order is legally correct. We are, therefore, unable to accept this contention."

4) 2007 (8) SCC 338, Dhampur Sugar Mills Ltd. v. State of U.P. and others

"23. As to alternative remedy available to the writ petitioner, a finding has been recorded by the High Court in favour of the writ petitioner and the same has not been challenged by the State before us. Even otherwise, from the record, it is clear that the decision has been taken by the Government. Obviously in such cases, remedy of appeal cannot be termed as ''alternative", or "equally efficacious". Once a policy decision has been taken by the Government, filing of appeal is virtually from "Caesar to Caesar''s wife", an "empty formality" or "futile attempt". The High Court was, therefore, right in overruling the preliminary objection raised by the respondents."

9. Keeping these principles in mind, when the facts on hand are looked into, it would indicate that on attaining the age of superannuation on 31.07.2013 petitioner retired from service and gratuity amount was not paid to him and as such, he approached the Controlling Authority under the Payment of Gratuity Act, 1972 making a claim of Rs. 10,00,000/- and also interest thereon for the delay caused. While deferring consideration of the application of the petitioner, Controlling Authority has taken note of judgment of Court rendered in N. Dattathry v. State Bank of Mysore, Head Office, Bangalore & another, reported in 2005 (4) Kar LJ 432 where under phrase "judicial proceedings" existing in the State Bank of India (Subsidiary Banks) Act, 1959 and the extant Regulations pressed into service namely, State Bank of Mysore Employees'' (Pension) Regulations, 1995 came to be considered and held as under:

"The phrase "judicial proceedings" used in Regulation 46 would mean any proceedings instituted before the Court relatable and connected with employment. The clause (2) of the Regulation mandates that the gratuity shall not be paid until the conclusion of the proceedings mentioned in clause (1). The criminal case is evidently pending and yet to be disposed of.

3. The contention of the petitioner that the words "judicial proceedings" would mean only the cases instituted by the Bank against the employees and does not include the criminal prosecution launched by the State is untenable unless the subject-matter criminal proceedings is connected with the employment. The regulation, does not permit for payment of gratuity until conclusion of the "judicial proceedings".

In this background, it was held that Regulation mandates that the Gratuity should not be paid until the conclusion of the proceedings and a direction came to be issued in Dattathry''s case to the jurisdictional Court adjudicating the criminal proceedings to dispose of the matter within a time frame.

10. The Controlling authority, having taken note of Dattathry''s case referred to supra and the Regulation of Vijaya Bank (Employees'') Pension Regulations, 1995

and the fact that there was criminal case filed against the applicant and others for the offences punishable under Section 120-B read with Sections 420, 467, 468 & 471, IPC r/w Section 13(1)(d) of Prevention of Corruption Act, 1988 pending before CBI Court, has arrived at a conclusion that in involves moral turpitude and has refused to entertain the application.

11. The judgment in (2007) 1 SCC 663), Jaswant Singh Gill relied upon by the learned Advocate appearing for the applicant has not been examined or considered by the Controlling Authority for reasons best known. Thus, impugned order of the Controlling Authority requires adjudication on the issue of interpretation of Regulation 46(2), since application of the applicant/petitioner has not been entertained or in other words, same was being deferred based on interpretation of said Regulation. In that view of the mater, this Court is of the considered view that directing the petitioner to approach the appellate authority or questioning the impugned order would only be to drive the petitioner to the second round of litigation which would not serve any purpose. As such, this Court is of the considered view that alternate remedy of an appeal would not bar this Court to examine as to whether finding arrived at by the Controlling Authority is just and proper and accordingly mould the relief to which petitioner would be entitled if any. Hence, this Court is of the view that argument canvassed by learned Advocate appearing for the respondent - Bank requires to be considered for the purposes of rejection and accordingly, it is rejected.

12. Now turning my attention back to the core issue viz., as to whether petitioner would be entitled to seek for a direction to the respondent-Bank to settle the gratuity amount or whether impugned order is to he set aside and matter is to be remitted back to the Controlling Authority for adjudication? Regulation governing said issue namely, Regulation 46 of Vijaya Bank (Employees'') Pension Regulations, 1995 will have to be looked into and it reads as under:

46. Provisional Pension:

(1) "An employee who has retired on attaining the age of superannuation or otherwise and against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued, a provisional pension, equal to the maximum pension which would have been admissible to him, would be allowed subject to adjustment against final retirement benefits sanctioned to him, upon conclusion of the proceedings hut no recovery shall be made where the pension finally sanctioned is less than the provisional pension or the pension is reduced or withheld etc. either permanently or for a specified period.

(2) In such cases the gratuity shall not be paid to such an employee until the conclusion of the proceedings subject to the decision of the proceedings. Any recoveries to be made from an employee shall be adjusted against the amount of gratuity payable."

A bare reading of above Regulation (1) would indicate that where departmental or judicial proceedings are instituted or where departmental proceedings are continued against an employee, then a provisional pension, equal to the maximum pension which would have been admissible to him would he allowed subject to adjustment against final retirement benefits to be sanctioned to him upon conclusion of proceedings and no recovery can be made where pension finally sanctioned is less than the provisional pension or pension is reduced or withheld either permanently or for a specified period. Sub-regulation (2) would indicate that gratuity shall not be paid to such an employee against whom any departmental or judicial proceedings are instituted or where departmental proceedings are continued, until conclusion of the proceedings against him and such gratuity would be paid to him on conclusion of the proceedings which would be subject to the decision that would be rendered in those proceedings and any recoveries made to the employee would be adjusted to the amount of gratuity payable.

13. Section 4 of the Payment of Gratuity Act, 1972 would indicate that gratuity would be payable to an employee on termination of his employment after he has rendered continuous service for not less than five years - (a) on superannuation; (b) on his retirement or resignation; or (c) on his death or disablement due to accident or disease and such continuous service indicated in sub-section (1) would not be applicable where termination of the employment of an employee is due to death or disablement. Thus, mandate of statute is that employer has to pay to the employee Gratuity amount on his retirement or to his dependents in the event of his death.

14. Hon''ble Apex Court in the case of Balbir Kaur v. Steel Authority of India Ltd. Reported in (2000)6 SCC 493 while interpreting Section 4(1) of the Gratuity Act has held to the following effect:

"15. It is upon consideration of the above noted provisions of Section 4, it was contended that question of compulsory depositing of the gratuity amount does not and cannot arise. We shall come back to the deposit of the Provident Fund but as regards the Gratuity amount, be it noted that there is a mandate of the statute that Gratuity is to be paid to the employee on his retirement or to his dependants in the event of his early death - the introduction of the Family Pension Scheme by which the employee is compelled to deposit the Gratuity amount, as a matter of fact runs counter to this beneficial piece of legislation (Act of 1972). The statutory mandate is unequivocal and unambiguous in nature and runs to the effect that the gratuity is payable to the heirs of the nominees of the employees concerned but by the introduction of the Family Pension Scheme, this mandate stands violated and as such the same cannot but be termed to be illegal in nature. We do find some substance in the contention as raised, a mandatory statutory obligation cannot be trifled with by adaptation of a method which runs counter to the statute. It does not take long to appreciate the purpose for which this particular Family Pension Scheme has been introduced by deposit of the provident fund and the gratuity amount and we are not expressing any opinion in regard thereto but the fact remains that statutory obligation cannot be left high and dry on the whims of the employer irrespective of the factum of the employer being an authority within the meaning of Article 12 or not."

(Emphasis supplied)

Thus, it would emerge that right to gratuity is also a statutory right and same cannot be brushed aside by adopting any method as it would run counter to the statute.

15. In similar circumstances namely, while examining as to whether Rule 34.3 of Coal India Executives'' Conduct, Discipline and Appeal Rules, 1978 should be read subject to provisions of the Act or there should be harmonious interpretation of both, Apex Court in (2007) 1 SCC 663, Jaswant Singh Gill v. Bharat Coking Coal Ltd. & other has held that though Regulation 34.3 is pressed into service by the employer therein for withholding the gratuity payable to the employee on the basis of disciplinary proceedings against the employee was pending, such course cannot be adopted by an employer or disciplinary authority and they would not be entitled to withhold payment of gratuity and such Regulation only enables the employer to recover from the employee from out of the gratuity payable on account of any pecuniary loss caused to the company which has been quantified. Said regulation which was pressed into service by the Bharat Coking Coal Ltd. reads as under:

"34.3. During the pendency of the disciplinary proceedings, the disciplinary authority may withheld payment of gratuity, for ordering the recovery from gratuity of the whole or part of any pecuniary loss caused to the company, if have been guilty of offences/misconduct as mentioned in sub-section (6) of Section 4 of the Payment of Gratuity Act, 1972 or to have caused pecuniary loss to the company by misconduct or negligence, during his service including service rendered on deputation or on re-employment after retirement. However, the provisions of Section 7(3) and 7(3-A) of the Payment of Gratuity Act, 1972 should be kept in view in the event of delayed payment, in the case the employee is fully exonerated."

While interpreting said Rules in the context of provisions of Section 4 of the Act, Apex Court has held as under:

"8. The Act was enacted with a view to provide for a scheme for payment of gratuity to the employees engaged inter alia in mines. Section 3 of the Act provides for appointment of an officer to be the controlling authority. The controlling authority is to be responsible for administration of the Act. Different authorities, however, may be appointed for different areas. Section 4 of the Act entitles an employee to gratuity after he has rendered continuous service for not less than five years inter alia on his superannuation. Sub-section (6) of Section 4 contains a non obstante clause stating:

"4. (6)(a) the gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property be longing to the employer, shall be forfeited to the extent of the damage or loss so caused:

(b) the gratuity payable to an employee may be wholly or partially forfeited -

(i) if the services of such employee have been terminated for his riotous or disorderly conduct or any other act of violence on his part, or

(ii) if the services of such employee have been terminated for any act which constitutes an offence involving moral turpitude, provided that such offence is committed by him in the course of his employment."

9. The Rules framed by the Coal India Limited are not statutory rules. They have been made by the holding company of Respondent 1."

Having noticed the statutory provision namely, Section 4(6) of the Act and Rule 34.3, it has been held that provisions of the Act would prevail over the Rules or Regulations and in conclusion, it came to be held as under:

"10. The provisions of the Act, therefore, must prevail over the Rules. Rule 27 of the Rules provides for recovery from gratuity only to the extent of loss caused to the Company by negligence or breach of orders or trust. Penalties, however, must be imposed so long an employee remains in service. Even if a disciplinary proceeding was initiated prior to the attaining of the age of superannuation, in the event the employee retires from service, the question of imposing a major penalty by removal or dismissal from service would not arise. Rule 34.2 no doubt provides for continuation of a disciplinary proceeding despite retirement of employee if the same was initiated before his retirement but the same would not mean that although he was permitted to retire and his services had not been extended for the said purpose, a major penalty in terms of Rule 27 can be imposed.

11. Power to withhold penalty (sic gratuity) contained in Rule 34.3 of the Rules must be subject to the provisions of the Act. Gratuity becomes payable as soon as the employee retires. The only condition therefor is rendition of five years'' continuous service.

12. A statutory right accrued, thus, cannot be impaired by reason of a Rule which does not have the force of a statute. It will bear repetition to state that the Rules framed by Respondent No. 1 or its holding company are not statutory in nature. The Rules in any event do not provide for withholding of retrial benefits or gratuity.

13. The Act provides for a close-knit scheme providing for payment of'' gratuity. It is a complete code containing detailed provisions covering the essential provisions of a scheme for a gratuity. It not only creates a right to payment of gratuity but also lays down the principles for quantification thereof as also the

conditions on which he may be denied therefrom. As noticed hereinbefore, sub-section (6) of Section 4 of the Act contains a non obstante clause vis-a-vis sub-section (1) thereof. As by reason thereof, an accrued or vested right is sought to he taken away, the conditions laid down thereunder must be fulfilled. The provisions contained therein must, therefore, be scrupulously observed. Clause (a) of sub-section (6) of Section 4 of the Act speaks of termination of service of an employee for any act, wilful omission or negligence causing any damage. However, the amount liable to be forfeited would be only to the extent of damage or loss caused. The disciplinary authority has not quantified the loss or damage. It was not found that the damages or loss caused to Respondent No. 1 was more than the amount of gratuity payable to the appellant. Clause (b) of sub-section (6) of Section 4 of the Act also provides for forfeiture of the whole amount of gratuity or part in the event his services had been terminated for his riotous or disorderly conduct or any other act of violence on his part or if he has been convicted for an offence involving moral turpitude. Conditions laid down therein are also not satisfied."

Authoritative pronouncement of Hon''ble Apex Court in Jaswant Singh Gill''s case was reiterated upon by the applicant before Controlling Authority as noticed herein above. However, it was never considered nor principles laid down therein have been applied or distinguished on facts by the Controlling Authority. On this ground alone, impugned order cannot be sustained.

16. As noticed herein above, under the impugned order, Controlling Authority has relied upon judgment of this Court in Dattathry''s case where under judgment of Apex Court in the case of Jaswant Singh Gill has not been referred and judgment in Jaswant Singh Gill referred by applicant has been ignored by Controlling Authority. On this ground also, order of the Controlling Authority cannot be sustained.

17. Insofar as judgment relied upon by learned Advocate appearing for respondent in the case of Y.K. Singla v. Punjab National Bank & others, reported in 2013, II LLJ 417 (SC), it can be safely concluded and held that issue regarding payment of interest for delayed payment of gratuity alone was under consideration and issue regarding withholding of gratuity was not under consideration. At paragraph 12, it has been held by Apex Court to the following effect:

"12. The right to withhold gratuity, is an issue separate and distinct, from the claim of interest, which has been raised by the appellant. The question that arises for consideration is. whether an employee whose gratuity has been withheld under Regulation 46(2) of the 1995 Regulations, would he be entitled to interest on the withheld payment of gratuity, if he is found not at fault? According xxx the issue in hand."

(Emphasis supplied by me)

In that view of the matter, said judgment would not come to the assistance of learned Advocate appearing for respondent.

18. Insofar as judgment of Madras High Court in M. Azeez v. Indian Bank, W.P.No.8450 of 2012, decided on 11.04.2012 is concerned, perusal of same would indicate that at paragraph 14, it has been observed by High Court of Madras to the following effect:

"14. The judgment in Bharat Coking Coal Ltd.''s case (cited supra) arose out of the scheme framed where the pension scheme was framed including the components of gratuity will exclude the provisions of the Payment of Gratuity Act and where employees even after reaching the age of superannuation can be retained in service for the purpose of continuing the disciplinary action."

Issue involved in Jaswant Singh Gill''s case as already noticed herein above was whether employer by pressing into service Rule 34.3 as obtained in the said case was entitled to withhold payment of gratuity or not? and it came to be held that provisions of the Payment of Gratuity Act would prevail over the Rules. As such, it came to be held by Apex Court that employer would not be entitled to withhold payment of gratuity amount on the ground of either disciplinary proceedings pending against an employee or any other criminal proceedings pending before jurisdictional Court. In that view of the matter, judgment of Madras High Court in M. Azeez''s case would not be of any assistance to the respondent.

19. Yet another factor which cannot go unnoticed is the fact that in the instant case, employer is said to have initiated certain proceedings against petitioner for alleged misconduct which resulted in imposition of penalty viz., reduction in time scale of pay by four stages for a period of three years and there has been no further embargo placed by the employer to withheld gratuity. As such, Controlling Authority was not justified in refusing to entertain the application of the petitioner for determination of the gratuity amount payable to petitioner. Hence, on all these grounds discussed herein above, petitioner would succeed.

20. For the reasons afore stated, I proceed to pass the following:

ORDER

(i) Writ petition is hereby allowed.

(ii) Impugned order dated 23.12.2014 -Annexure-F passed by second respondent is hereby quashed.

(iii) Application filed by the petitioner for payment of gratuity as per Annexure-A before second respondent is ordered to be adjudicated afresh on merits and in accordance with law.

(iv) No opinion is expressed with regard to claim on merits.

(v) Second respondent - Controlling Authority shall adjudicate the claim of petitioner after affording opportunity to both the parties and dispose of the same on merits and in accordance with law expeditiously, at any rate, within three months from the date of receipt of copy of this order.

21. Ordered accordingly.

