

(2013) 11 KAR CK 0365
In the Karnataka High Court
Case No : Writ Petition No. 28713 of 2012

The Secretary to Government and Another
Vs

APPELLANT

B.V. Murthy

RESPONDENT

Date of Decision : 13-11-2013

Acts Referred:

Citation : (2014) 1 AKR 258 : (2014) 2 KCCR 1388

Hon'ble Judges : H. Billappa, J

Bench : Single Bench

Advocate : E.S. Indresh, H.C.G.P, for the Appellant; Sandhya V. Prabhu and Vighneshwar S. Shastri, for the Respondent

Final Decision : Dismissed

Judgement

H. Billappa, J.—In this writ petition under Articles 226 and 227 of the Constitution of India, the petitioners have called in question, the order dated 14.3.2011, passed by the Assistant Labour Commissioner and Controlling Authority under payment of Gratuity Act, Mysore Division, vide Annexure-A and the order dated 8.5.2012, passed by the Deputy Labour Commissioner and the Appellate Authority, vide Annexure-B. By the impugned order at Annexure-A, the Controlling Authority has directed the second petitioner to pay gratuity of Rs. 62,220/- with interest at 10% from 31.12.2003. Aggrieved by that, the second petitioner has preferred an appeal before the Appellate Authority. By order dated 8.5.2012, the Appellate Authority has confirmed the order passed by the Controlling Authority and dismissed the appeal. Therefore, this writ petition.

2. Briefly stated the facts are:

The respondent was appointed as Mechanic on daily wage basis on 1.4.1978. He was made permanent on 1.1.1990. The respondent retired from service on 30.11.2003. Thereafter, an application has been filed u/s. 7(4) of the Payment of Gratuity Act on 2.4.2009. The application was allowed by the Controlling Authority on 14.3.2011. The second petitioner preferred an appeal before the

Appellate Authority. It was dismissed on 8.5.2012. Therefore, this writ petition.

3. The learned Government Pleader contended that the Controlling Authority as well as the Appellate Authority have erred in directing the 2nd petitioner to pay gratuity of Rs. 62,220/- with interest. The service of the respondent was regularized from 1.1.1990 and therefore, the Controlling Authority and the Appellate Authority were not justified in directing to pay the gratuity from 1.4.1978. He therefore submitted that the impugned orders cannot be sustained in law.

4. As against this, the learned counsel for the respondent submitted that the impugned orders do not call for interference. She also submitted that the respondent was appointed as a Mechanic on 1.4.1978. His services were regularized from 1.1.1990. Therefore, the Controlling Authority as well as the Appellate Authority were justified in directing to pay gratuity from 1.4.1978. Reliance was placed on the unreported decision of this court in W.A. No. 2761/2000.

5. I have carefully considered the submissions made by the learned counsel for the parties. I do not find any merit in the submission of the learned Government Pleader. The respondent was appointed as Mechanic on daily wage basis on 1.4.1978. His services were regularized from 1.1.1990. The respondent has retired from service on 30.11.2003. The Division Bench of this court in W.A. No. 2761/2000, disposed of on 6.12.2000, has held, if the employee has worked for more than one year or six months in a calendar year and subsequently, his services have been regularized, he is entitled for gratuity from the date of his appointment. Therefore, there is no merit in the contention of the learned Government Pleader and accordingly, it is rejected. The Controlling Authority as well as the Appellate Authority were justified in directing to pay gratuity from 1.4.1978 till the respondent has retired from service on 30.11.2003. Therefore, the impugned orders do not call for interference. There is no merit in this writ petition and it is liable to be dismissed.

Accordingly, the writ petition is dismissed. If the amount is not deposited, the 2nd petitioner shall deposit the amount without further delay. Petition dismissed.