



**AMITA
DUBEY**

2026:CGHC:10144

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPL No. 58 of 2023

The Chairman-Cum-Managing Director South Eastern Coalfields Limited, S
E C L, Bhavan, Sipat Road, Bilaspur (Chhattisgarh)

--- Petitioner

versus

- 1** - Shri Manoj Kumar Sharma R/o - A - 202, Atmosphere Loyala School, Vasant Vihar Chowk, Lingiyadih, Bilaspur (Chhattisgarh) – 495006.
- 2** - The Controlling Authority Under The P.G Act (1972) And Regional Labour Commissioner (C), Main Road, Torwa Bilaspur (Chhattisgarh).
- 3** - The Appellate Authority Under The Payments Of Gratuity Act, 1972 And Office Of Deputy Chief Labour Commissioner (C), D- 6, Sector - 1, Adarsh Society, Avanti Vihar, Raipur (Chhattisgarh).

--- Respondents

WPL No. 61 of 2023

The Chairman-Cum-Managing Director South Eastern Coalfields Limited,
Secl Bhavan, Sipat Road, Bilaspur Chhattisgarh.

---Petitioner

Versus

- 1** - Shri Sanjay Kumar Gupta R/o. 01, Sundar Bhavan, Kannulal Road, Mithapur, P.S. Patna, District - Patna (Bihar) – 800001.
- 2** - The Controlling Authority, Under The P.G. Act (1972) And Regional Labour Commissioner (C), Main Road, Torwa Bilaspur Chhattisgarh.
- 3** - The Appellate Authority, Under The Payments Of Gratuity Act, 1972 And Office Of Deputy Chief Labour Commissioner (C), D - 6, Sector - 1, Adarsh Society, Avanti Vihar, Raipur Chhattisgarh.

--- Respondents

WPL No. 60 of 2023

The Chairman-Cum-Managing Director South Eastern Coalfields Limited,
Secl, Bhavan, Sipat Road, Bilaspur Chhattisgarh.

---Petitioner

Versus

1 - Shri P Chattopadhyay And Others S/o. Late Shri Saibal Chattopadhyay,
R/o. 536, Netaji Colony, Near Baranagar Police Station, P.S. Nawapara,
Kolkata, West Bangal- 700090.

2 - The Controlling Authority, Under The P.G. Act (1972), And Regional
Labour Commissioner (C), Main Road, Torwa Bilaspur Chhattisgarh.

3 - The Appellate Authority, Under The Payments Of Gratuity Act, 1972 And
Office Of Deputy Chief Labour Commissioner (C), D -6, Sector -1, Adarsh
Society, Avanti Vihar, Raipur Chhattisgarh.

--- Respondents

WPL No. 62 of 2023

The Chairman-Cum-Managing Director, South Eastern Coalfields Limited
S.E.C.L. Bhavan, Sipat Road, District : Bilaspur, Chhattisgarh.

---Petitioner

Versus

1 - Shri S. Mahizhnan And Others S/o K. Sadayappan R/o 2/459 Ayyanarkoil,
Thirunarayur, Natchiar Koil, Kumbakonam (T K), District - Thanjavur, Tamil
Nadu – 612602.

2 - The Controlling Authority Under The P.G. Act (1972) And Regional Labour
Commissioner (C), Main Road, Torwa Bilaspur, Chhattisgarh.

3 - The Appellate Authority Under The Payments Of Gratuity Act, 1972 And
Office Of Deputy Chief Labour Commissioner (C), D - 6, Sector -1, Adarsh
Society, Avanti Vihar, Raipur, Chhattisgarh.

--- Respondents

For Petitioner	:	Mr. V. R. Tiwari, Sr. Advocate assisted by Mr. Palash Tiwari, Adv.
For Respondents	:	Mr. Gary Mukhopadhyaya, Advocate.

Hon'ble Shri Justice Sachin Singh Rajput

Order On Board

26/02/2026

1. Since identical issue is involved in both the writ petitions, they are being heard analogously and decided by this common order.

[For the sake of convenience, WPL No. 58 of 2023 is taken-up as lead case]

2. Following reliefs have been claimed in the instant writ petition:-

10.1 The Hon'ble Court may kindly be pleased to call for records and adjudicate the petition before this Hon'ble High Court.

And/or

10.2 The Hon'ble Court may kindly be pleased to quash the Order passed by the learned Controlling Authority (Respondent No. 2) passed on dated 25.02.2022 (issued on 23.03.2022)

(ANNEXURE P/1). And/or

10.3 The Hon'ble Court may kindly be pleased to quash the order passed by the Appellate Authority under the Payment of Gratuity Act- 1972 and Deputy Chief Commissioner (C), Govt. of India, Ministry of Labour & Employment – Raipur (Respondent No. 3) issued by Controlling Authority (respondent No.2).

10.3A That, the Hon'ble Court may kindly be pleased to remove the interest imposed upon the petitioner in the order passed by the Learned Controlling Authority (Respondent No. 2) passed on dated 25.02.2022 (issued on 23.03.2022) (ANNEXURE P/1) along with the interest imposed upon the petitioner in the order passed by the Appellate Authority (Respondent No. 3) under the Payment of Gratuity Act -1972 and Deputy Chief Commissioner ©, Govt. of India, Ministry of Labour & Employment – Raipur (Respondent No. 3) dated 22.11.2022 (ANNEXURE P/2).

10.4 That, the Hon'ble Court may kindly be pleased to grant any other relief, as it may deem fit and appropriate.”

3. Learned Senior Counsel appearing for the petitioner submits that respondents in these writ petitions were employees of the Petitioner -South Eastern Coalfields Limited. They retired from services on 31.3.2021 and 31.8.2020, respectively, on attaining the age of superannuation. He submits that before the retirement, a charge-sheet was issued against the respondents and pursuant to that, departmental enquiry was initiated against them. That Departmental Enquiry was continuing at the time of retirement of these respondents. After completion of fulfilled departmental enquiry, the respondents have been acquitted of the alleged charges. He submits that since the departmental enquiry was pending against the respondents/employees at the time of their retirement, therefore, their gratuity was withheld. He submits that the respondents have filed an application under Section 7 (3) of the Payment of Gratuity Act, 1972 (for brevity, “PG Act, 1972”) before Regional Labour Commissioner (Central) i.e. Controlling Authority under the PG Act, 1972. Vide order dated 25.02.2022 issued on 23.03.2022, Controlling Authority allowed the applications filed by respondents directing the petitioner -SECL herein to pay gratuity of Rs. 20,00,000/- along with interest @ 10% per annum from the date of their respective retirement. Questioning the same, the petitioner herein preferred an appeal under Section 7(7) of the PG Act, 1972 before the Appellate Authority under the PG Act, 1972 and Deputy Chief Labour Commissioner (C), Govt. of India, Ministry of Labour & Employment, Raipur. In pursuance of the order passed by the Controlling Authority, the petitioner has deposited the entire amount of gratuity alongwith interest before the Appellate Authority. By the impugned order, the appellate Authority has dismissed the appeal

filed by the petitioner-SECL leading to filing of instant writ petition seeking above-stated relief.

4. Learned Senior Counsel appearing for the petitioner/SECL further submits that services of the respondents are governed by Coal India Executives Conduct, Discipline and Appeal Rules, 1978 (henceforth referred to as, "CDA rules, 1978") and as per Rule 36.2 (iii) of CDA Rules, 1978 provides power to the petitioner- SECL to withhold payment of gratuity or leave encashment or both, for ordering of recovery in case of any departmental enquiry is pending at the time of retirement, for recovery of any loss, which may be caused after the conclusion of the departmental enquiry to the petitioner. Thus, it is submitted that the petitioner- SECL has rightly withheld the gratuity. Though, in the departmental enquiry, the respondents have been exonerated of the charge levelled against them, withholding of gratuity amount was bonafide and thus, the petitioner / employer cannot be saddled with liability to pay the interest. Even otherwise, entire amount of gratuity alongwith interest was deposited with the appellate authority and, therefore, impugned order may be modified and the interest, which has been paid to the respondents before the appellate Authority, on the gratuity amount may be directed to be refunded back to the petitioner. To buttress his submission, he placed reliance upon the judgment of the Supreme Court in the matter of **R. Veera Bhadram vs. State of Andhra Pradesh**¹ and High Court of Madhya Pradesh in the matter of **General Manager, Canara Bank Vs. Shri Prakashn Mandve & others**² and judgment passed by Hon'ble Gujarat High Court in the matter of **A.A. Vohra Vs. State of Gujarat**³.

5. Per contra, learned counsel for the respondents /employees submits

1 (1999) 9 SCC 43

2 2022 SCC OnLine MP 4817

3 Special application No. 3855 of 2001, dated 10.01.2002

that though the respective respondents were facing departmental enquiry at the time of their retirement, however, after conclusion of full-fledged departmental enquiry, they were fully exonerated of the charges levelled against them. He further submits that the Rule 36.2 (iii) of the CDA Rules, 1978 clearly envisages that the provisions contained in Sections 7(3) and 7(3A) of the PG Act, 1972 should be kept in view in the event of delayed payment of gratuity, in the case the employee is fully exonerated. In the case in hand, the respondents/employees have been exonerated of all the charges levelled against them and there is nothing on record to suggest that because of their any misconduct any loss was caused to the petitioner-SECL. The petitioner-SECL could have assessed the probable loss, which may have been caused and by withholding of the said amount, remaining amount of gratuity ought to have been disbursed. In the case in hand, the respondents who were entitled to receive an amount of Rs.20,00,000/- as gratuity, have been deprived of the same on account of pendency of departmental enquiry. Learned Controlling Authority as well as Appellate Authority have categorically recorded a finding of fact against the petitioner and, thus, the writ petitions, being devoid of substance are liable to be dismissed. He submits that by virtue of interim order passed by this Court, interest part was stayed, and, therefore, the respondents deserves to seek pendente lite interest also. In this regard, he placed reliance upon the judgment of the Supreme Court in the matter of **H. Gangahanume Gowda vs. Karnataka Agro Industries**⁴ and judgment passed by this Court in the matter of **K.K. Singh vs. South Eastern Coalfields Limited**⁵

6. I have heard learned counsel for the parties and perused the material available on record.

4 (2003) 3 SCC 40

5 WPS No.6439 of 2009, decided on 08.10.2019.

7. The factual scenario involved in these writ petitions is not in dispute. The respondents have retired on attaining the age of superannuation. Admittedly, the departmental enquiry was also pending against the respondents at the time of their retirement. It is also not in dispute that the respondents are entitled to receive an amount of Rs.20,00,000/- as gratuity. It is also not in dispute that after conclusion of full-fledged departmental enquiry some of the respondents have been exonerated of all the charges and some of the petitioner was inflicted with penalty of censure. It does not appear that any penalty of recovery of any loss cause to petitioner is inflicted on respondents as submitted by learned counsel for respondent.

8. Learned Senior Counsel appearing for the petitioner justified withholding of gratuity taking shelter of the provisions contained in Rule 36.2 (iii) of the CDA Rules.

9. For ready reference, Rule 36.2 (iii) of CDA Rules provides as under :-
 “36.2. Disciplinary proceeding / Imposition of Penalty on Employees after their retirement.

- | | | | |
|------|-----|-----|-----|
| (i) | xxx | xxx | xxx |
| (ii) | xxx | xxx | xxx |

(iii) During the pendency of the disciplinary proceeding, the Disciplinary Authority may withhold payment of gratuity or Leave encashment or both, for ordering the recovery from gratuity or leave encashment or both 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 cause pecuniary loss to the company by misconduct or negligence, during his / her service including service rendered on deputation or on re-employment after retirement. However, the provisions of Section 7(3) and 7 (3A) 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.

Explanation:

If any employee has been issued a charge sheet with the offence/ misconduct on the grounds mentioned in Sec. 4(6) of

the Payment of Gratuity Act, 1972 and the disciplinary proceedings is pending against the employee on the date of his superannuation, his/her gratuity shall not be withheld by the Competent Authority, if:

i) In cases under Sec 4(6) (a) of the Payment of Gratuity Act, 1972 - If the charge sheet does not provide/ quantify the actual extent of damage or loss sustained due to the act of willful omission, or negligence causing loss to or destruction of property belonging to the employer:

ii) In cases under Sec 4(6) (b)(ii) of the Payment of Gratuity Act, 1972 - no criminal case is pending wherein any compliant/ FIR/ charge is filed/ framed for any offence involving moral turpitude.”

10. Perusal of the Rules would indicate that during pendency of the disciplinary proceedings, disciplinary authority may withhold payment of gratuity or Leave encashment or both. However, later part of the Rule would clearly indicate that provisions of Section 7(3) and 7 (3A) of the PG Act, 1972 should be kept in view in the event of delayed payment, in the case the employee is fully exonerated.

11. Thus, this Court is of the opinion that, Rule itself takes care of rights of employees, against whom the departmental enquiry is being conducted and on full exoneration, the petitioner ought to have taken care of the above-quoted provisions.

12. Though, the charge-sheet has not been filed by the petitioner, it is part of record alongwith return filed by the respondents. There are two articles of charge levelled against the respondents. Both the charges would not indicate that as to what monetary loss could have been caused to the petitioner by the alleged misconduct of the respondents herein.

13. Learned Senior Counsel appearing for the petitioner cited the judgment of the Supreme Court in the case of **R. Veera Bhadram (supra)**, in which it has been held that there is no unjustified delay in payment of

gratuity and the gratuity was withheld on legitimate ground. There is no quarrel to the law laid down by Hon'ble Supreme Court in afore-cited case (supra), but fact remains that facts of afore-cited case are altogether different and as such distinguishable from the facts of the instant case, because the case of **R. Veera Bhadram (supra)**, pertains to the provisions contained in Section 52 (1)(c) of the ***A.P. Revised Pensions Rules***, whereas in the case in hand, service condition of the petitioner is to be dealt with by the Rules which also protects the right of the employee and for that, it will not be helpful to the petitioner.

14. The facts of another case law in MP High Court in the matter of **General Manager, Canara Bank Vs. Shri Prakashn Mandve & others (supra)** cited by learned Senior Counsel appearing for the petitioner is also distinguishable to the facts of the instant case, as in the case of **General Manager, Canara Bank Vs. Shri Prakashn Mandve & others (supra)**, the petitioner therein earlier was convicted and, thereafter, he was acquitted and in that case, Hon'ble High Court has recorded justifiable reasons for withholding the gratuity. Likewise, the case of **A.A. Vohra (supra)** is also distinguishable to the facts of the instant case, as stated above.

15. Learned counsel for the Respondents has relied upon the case of **H. Gangahanume Gowda (supra)**. There is no quarrel about the law laid down by the Apex Court in afore-cited case that interest is required to be paid for the delayed payment of gratuity, which has also been reiterated in the case of **K.K. Singh (supra)**. But, from the factual scenario of the case in hand, it is quite vivid that gratuity was deposited by the petitioner alongwith interest before the appellate authority, pursuant to the direction given by the Controlling Authority.

16. In light of the above discussion, particularly, considering the provisions contained in Rule 36. 2 (iii) of the Rules, 1978, this Court does not find any justifiable reasons to withhold the gratuity of the respondents-employee. In all fairness, the petitioner-SECL while issuing charge-sheet, could have assessed the probable loss, which may have been caused to the petitioner-Company on account of alleged misconduct of the respondents-employee. Here, in the instant case, nothing has been spelt out in the Article of charges, which has been filed along with the return.

17. The Controlling Authority as well as Appellate Authority have considered in detail the submission raised by the petitioner and given categorical finding with regard to payment of gratuity alongwith interest.

18. As a fallout and consequence of the aforesaid discussion, the writ petitions, being devoid of substance, are liable to be and are hereby dismissed.

19. The submission of Mr. Gary Mukhopadhyaya, learned counsel for the respondents-employee with regard to pendente lite interest does not hold water, as the interim protection was granted by this Court and amount of gratuity alongwith interest has already been deposited by the petitioner before the Controlling Authority. However, the petitioner is at liberty to file appropriate application before the Appellate Authority for withdrawal of the gratuity amount alongwith interest, if the same has not been disbursed to the respondents.

Sd/-

(Sachin Singh Rajput)
JUDGE