IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 2127 of 2025

Biswjeet Kumar Sinha, aged about 60 years, son of Late Siddhi Nath Prasad, resident of Samriddhi Park, 6 D, Lilly Block, Ara Gate- Namkom, Samlong District- Tatisilway, Pin: 835103, Ranchi, Jharkhand. **…… Petitioner**

-Versus-

1. The State of Jharkhand
2. The Principal Secretary, Agriculture, Animal Husbandry and Co-operative Department (Co-operative Section), Govt. of Jharkhand, Nepal House, Doranda P.O. & P.S.-Doranda, District- Ranchi, Jharkhand.
3. The Registrar, Cooperative Societies, Department of Co-operative Societies, Engineer's Hostel, P.O & P.S.- Dhurwa, District-Ranchi, Jharkhand.
4. The Managing Director, JHASCOLAMF Ltd. Purulia Road, P.O & P.S.- Lalpur, District- Ranchi, Jharkhand.

…… Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner : Mr. Deepak Kr Dubey, Advocate
Mrs. Ruhi Dubey, Advocate
Miss Rashi Sharma, Advocate
For the Respondents :Mr. Rahul Saboo, Advocate
Mr. Saket Upadhyay, Advocate
Mrs. Sweta Rani, Advocates

C.A.V ON. 18.04.2026 **PRONOUNCED ON:06 /05/2026**

1. The instant writ application has been preferred by the Petitioner for the following reliefs: -

> *For issuance of an appropriate writ(s)/order(s)/or direction(s) particularly a writ in the nature of Mandamus commanding upon the respondents to immediately and forthwith release the Gratuity and Leave Encashment as the petitioner has already superannuated from service on 31.01.2025.*
>
> *AND/OR*
>
> *Petitioner further prays for any other relief/reliefs, as Your Lordships may deem fit and proper in the facts and circumstances of this case for doing conscionable justice to the petitioner.*

2. The brief facts of the case as per the pleadings is that the petitioner was appointed on 01.10.1986 to the post of Assistant in the office of the Managing Director, BISCOLAMF. Upon bifurcation of the erstwhile State of Bihar, the services of the petitioner stood allocated to the newly created State of Jharkhand under JHASCOLAMF, where he continued to discharge his duties uninterruptedly till the date of his superannuation.

3. During the course of his service, the petitioner was duly granted the benefits of 1st ACP, 2nd MACP and 3rd MACP, and was also extended the benefits of the 6th and 7th Pay Revisions.

4. Upon superannuation, the petitioner submitted representations before the respondent authorities seeking release of gratuity and leave encashment. However, certain alleged infirmities were pointed out by the respondents, pursuant to which explanations were sought from the petitioner, which he duly furnished. Despite the same, the respondents found the explanation to be unsatisfactory and directed the petitioner to appear and submit further clarification.

5. Ultimately, according to the petitioner the respondent authorities proceeded to release leave encashment only for 147 days as against the admissible 300 days, and gratuity to the extent of Rs. 18,38,925/- as against the rightful entitlement of Rs. 21,21,836/-.

6. Being aggrieved by such arbitrary and unlawful curtailment of his legitimate post-retiral benefits, the petitioner has been constrained to prefer the present writ application.

7. Learned counsel for the petitioner had submitted that in terms of Section 7(3) and 7(3A) of the Payment of Gratuity Act, 1972, the employer is under a statutory obligation to arrange payment of gratuity within a period of thirty days from the date it becomes payable to the employee. It was contended that in the event of failure to make such payment within the stipulated period, the employer is liable to pay simple interest, as notified by the Central Government, from the date on which the gratuity becomes payable till the date of actual payment, unless the delay is attributable to the employee.

8. It was further submitted that the illegal withholding and delayed disbursement of gratuity and other post-retiral benefits by the respondent authorities is contrary to the settled principles of law, and in support thereof; reliance has been placed on the judgment in ***Dr. Dudh Nath Pandey vs. State of Jharkhand & Ors.***[1]

9. It was next contended that the gratuity amount paid to the petitioner is not in accordance with the statutory formula prescribed under the Payment of Gratuity Act, 1972. The petitioner has been paid a sum of Rs. 18,38,925/- towards gratuity; whereas the correct amount payable, as per law, is Rs. 21,21,836/-.

10. It was also submitted that the petitioner has also been arbitrarily deprived of full leave encashment, inasmuch as, payment has been made only for 147 days instead of the admissible 300 days, resulting in payment of Rs. 5,46,105/- as against the rightful entitlement of Rs. 11,14,500/-. He further submitted that Jharkhand/Bihar Pension Rule is not applicable in the case of Petitioner as the provision of granting pension is not applicable in JHASCOLAMPF

11. It was lastly submitted that the calculation of gratuity by the respondent authorities is ex facie erroneous and contrary to the statutory formula. The correct method of calculation is:

> *Gratuity = Last Drawn Salary × Number of Completed Years of Service × 15/26.*
> *Applying the said formula, the petitioner's gratuity is computed as follows:*
> *Rs. 1,11,450 × 33 × 15/26 = Rs. 21,21,836/-*

This clearly demonstrates that the petitioner has been underpaid, thereby entitling him to the differential amount along with statutory interest.

12. *Per contra*, learned counsel appearing on behalf of the respondents, placing reliance upon the statements made in the counter affidavit, submitted that the grievance of the petitioner stands duly redressed, inasmuch as, the reliefs sought in the writ petition have already been considered and approved by the competent authority, i.e., the Board of JHASCOLAMF, and the admissible amounts have been credited to the petitioner's bank account.

[1] (2007) 4 JCR 1 (Jhr)

13. It has been contended that the present writ petition has, therefore, been rendered infructuous. It was further submitted that in the 28th Meeting of the Board of JHASCOLAMF, a decision was taken to extend the benefits of gratuity and leave encashment to the petitioner; pursuant to which, vide Ref. No. 199 dated 21.04.2025, sanction was accorded for payment of gratuity amounting to Rs. 18,38,925/-, and vide Ref. No. 215 dated 25.04.2025, and sanction was granted for payment of leave encashment amounting to Rs. 5,46,105/-, which amounts were subsequently transferred to the petitioner's bank account (A/c No. 100120248) through RTGS on the basis of materials and records available with the respondents.

14. Learned counsel for the respondents further submitted that since the petitioner failed to furnish documentary proof substantiating his claim for leave encashment of 300 days, the respondents were constrained to compute and release the amount only for 147 days as per the available service records. It was contended that the petitioner's claim for higher leave encashment is based merely on presumptions and cannot be sustained in absence of verifiable records, notwithstanding the alleged verification of 278 days as on 03.09.2019.

15. It was additionally submitted that the calculation of gratuity has been carried out strictly in accordance with the applicable law and governing resolutions. The gratuity payable to the petitioner was computed as follows:

> *Gratuity = Last drawn salary (Basic + DA) × ½ × number of completed half-years of service, i.e., (Rs. 74,300 + Rs. 37,150) × ½ × (66/2) = Rs. 18,38,925/-.*

16. It was further contended that the Resolution dated 18.01.2017 issued vide Memo No. 218/F, particularly Clause 6.1 thereof, governs the revision of rates for payment of retirement/death gratuity and modifies the relevant provisions under the Jharkhand Pension Rules, 2000, and that the petitioner's case has been dealt with strictly in terms thereof.

17. Having heard learned counsel for the parties and after going through the documents annexed with the respective affidavits, it appears that it is not in dispute that the petitioner was an employee under the respondent–Federation and upon cessation of service became entitled to retiral benefits including gratuity and leave encashment.

18. The grievance of the petitioner is twofold:

- *Gratuity has been calculated by applying the Jharkhand Pension Rules, though the said rules are not applicable to the employees of the Federation; and*
- *Leave encashment has been restricted to 147 days instead of 300 days.*

19. The following issues arise for consideration:

a. Whether the writ petition is maintainable in view of availability of alternative remedy under the Payment of Gratuity Act?
b. Whether gratuity of the petitioner has been wrongly calculated by applying inapplicable pension rules?
c. Whether restriction of leave encashment to 147 days is sustainable in law?

20. This Court has considered the preliminary objection raised by the respondents regarding availability of alternative remedy. The remedy before the Controlling Authority under the Payment of Gratuity Act is meant for adjudication of disputes arising under the Act, particularly where questions of computation or entitlement in terms of the Act are involved. However, in the present case, the core issue is that the respondents have not applied the provisions of the Payment of Gratuity Act at all, and have instead resorted to Jharkhand Pension Rules, which are ex facie inapplicable.

Thus, the case does not involve a mere dispute as to calculation, but involves a patent illegality in applying an inapplicable set of rules; thereby depriving the petitioner of statutory benefits.

It is well settled that existence of an alternative remedy does not bar exercise of writ jurisdiction where the impugned action is arbitrary, without jurisdiction, or in violation of statutory provisions.

In such circumstances, relegating the petitioner to the Controlling Authority would be unnecessary and unjustified. Accordingly, the objection regarding maintainability is rejected.

21. It is not in dispute that no pension rules are applicable to the employees of the respondent–Federation. In absence of any applicable pension scheme, gratuity payable to the petitioner is governed by the Payment of Gratuity Act, 1972, which is a complete code and has overriding effect over inconsistent rules. The respondents have admittedly calculated gratuity by applying Jharkhand Pension Rules.

It appears that the respondent authorities have made payment of Gratuity to the tune of Rs. 18,38,925 in the account of the Petitioner on 21.04.2025; however, the calculation provided by learned counsel for the petitioner in para 6 appears to be correct which is amounting to Rs. 21,21,836

22. On perusal of the method of calculating gratuity provided by the rival parties, it appears that the calculation which has been adopted by the Respondent Authority in granting gratuity to the Petitioner is not as per the calculation formula given in payment of Gratuity Act.

It is settled law that when in any Corporation, Factory, employee of State Government, Employees of Co-operative Society, Federation and other institution where the Payment of Gratuity Act, 1972 is applicable; then calculation shall be followed as per the calculation formula prescribed under the Gratuity Act.

23. Even otherwise, in supplementary counter affidavit the Respondent authorities have admitted that "*the Writ Petitioner completed 38 years 4 months of service whereas the resolution provides maximum of 33 years.*"

24. It is further relevant to mention here that Respondent authorities have themselves stated that the basic salary of petitioner is Rs. 74,300 and the Dearness allowance rises by 50% *i.e. Rs, 37,150.* Hence the gratuity of the Petitioner should be increased by

25% of his actual gratuity (his ceiling gratuity i.e. from Rs. 20,00,000 to Rs. 25,00,000) as the dearness allowance of the petitioner rises by 50% of the basic pay which is very much clarified in clause 6.2 of resolution issued vide memo no. 218/f dated 18.01.2017 as the Petitioner's length of service is more than 33 years and not less than that.

25. Hence, this Court, holds that the calculation of gratuity made by the respondents is illegal, arbitrary and unsustainable in law, resulting in payment of a lesser amount than what the petitioner is entitled to.

26. So far as leave encashment is concerned; the respondents have restricted the same to 147 days. No material has been placed on record to justify such restriction. The petitioner has asserted entitlement up to 300 days, and in absence of any rule limiting the same to 147 days, the action of the respondents appears arbitrary. If computing the leave encashment of the petitioner if any infirmity was found as the details of 300 days earned leave in the form of leave account is not found in the record, then the petitioner is not responsible for that.

The Petitioner is not responsible for the maintenance of form of leave account as well as he is not responsible for making entry in his own service book. It is the duty of the Head of the Office or Sr. Gazetted officer; who has to verify the leave account and service book annually i.e. July of every year as per Rule 298 of the Jharkhand Service Code.

27. Curtailment of leave encashment without authority of law cannot be sustained.

28. In view of the discussions made hereinabove, this Court holds as under:

(i) The gratuity of the petitioner has been wrongly calculated by applying inapplicable Jharkhand Pension Rules instead of the Payment of Gratuity Act, 1972;

(ii) Leave encashment has been wrongly restricted to 147 days instead of 300 days.

29. Accordingly, the writ petition is allowed, with the following directions:- *(a) The respondents are directed to recalculate the gratuity payable to the petitioner strictly in accordance with the provisions of the Payment of Gratuity Act, 1972; The respondents shall pay the differential amount of gratuity, after adjusting the amount already paid.*

(b) The respondents are further directed to recalculate leave encashment by taking into account 300 days; The differential amount towards leave encashment shall also be paid to the petitioner.

30. The aforesaid exercise shall be completed within a period of 6 weeks from the date of receipt/production of a copy of this order; The petitioner shall also be entitled to simple interest, in accordance with law, on delayed payment of gratuity.

31. With the aforesaid observations and directions, the writ petition stands allowed. Pending I.As., if any also closed. No cost.

(Deepak Roshan, J.)

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