



**IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH**

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

WRIT PETITION NO. 200953 OF 2023 (L-PG)

BETWEEN:

SHARANAPPA S/O AYYANNA
AGED ABOUT 64 YEARS,
OCC: RETD. GOVT. SERVANT,
R/O AMARAPURA NOW C/O BAVGI HOSPITAL,
GURUNANAK ROAD, BIDAR-585401,

...PETITIONER

(BY SRI SHARANNU S. SARADAGI, ADVOCATE)

AND:

1. THE ASSISTANT COMMISSIONER
OF LABOUR AND APPELLATE AUTHORITY,
UNDER PAYMENT OF GRATUITY ACT, 1972,
KALABURAGI SUB DIVISION, KALABURAGI,
KARMIKARA BHAVAN, BEHIND ITI COLLEGE,
KALABURAGI- 585102.
2. LABOUR OFFICER AND CONTROLLING AUTHORITY,
UNDER PAYMENT OF GRATUITY ACT, 1972
KALABURAGI SUB DIVISION, KALABURAGI,
KARMIKARA BHAVAN, BEHIND ITI COLLEGE,
KALABURAGI-585102.
3. THE DIVISIONAL CONTROLLER KKRTC
KALABURAGI 2ND DIVISION,
KALABURAGI-585102.

...RESPONDENTS

(BY SRI MALLIKARJUN SAHUKAR, AGA FOR R1 & R2;
SRI DEEPAK V. BARAD, ADVOCATE FOR R3)



THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, PRAYING TO, I) TO ISSUE A WRIT OF CERTIORARI QUASHING THE IMPUGNED ORDER AT ANNEXURE-B BEARING NO.ಸಕಾಅಕ/ಪಿಜಿಎ/ಅಪೀಲು/ಸಿಆರ್-06/2018 DATED 10-10-2019 PASSED BY THE FIRST RESPONDENT THE ASSISTANT COMMISSIONER OF LABOUR APPELLATE AUTHORITY UNDER PAYMENT OF GRATUITY ACT,1972, KALABURAGI SUB DIVISION, KALABURAGI ON 10-10-2019 AND UPHELD THE ORDER PASSED BY LABOUR OFFICER AND CONTROLLING AUTHORITY UNDER PAYMENT OF GRATUITY ACT, 1972 KALABURAGI SUB DIVISION, KALABURAGI DATED 22-11-2018 VIDE ANNEXURE-A BEARING NO.ಸಂಕಾಅಕ/ಉಪಾಕಾ/ಸಿಆರ್-125/2016; II) TO ISSUE ANY OTHER WRIT OR ORDER IN FAVOUR OF THE PETITIONER, WHICH THE COURT MAY DEEM FIT AND NECESSARY IN THE CIRCUMSTANCES OF THE CASE.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

ORAL ORDER

1. This writ petition under Articles 226 and 227 of the Constitution of India is filed with a prayer to quash the impugned order at Annexure-B passed by respondent no.1 dated 10.10.2019 and proceedings bearing No. ಸಕಾಅಕ/ಪಿಜಿಎ/ಅಪೀಲು/ಸಿಆರ್-06/2018.



2. Heard the learned counsel appearing for the parties.

3. The petitioner had filed a claim petition before the controlling authority, after his retirement, for payment of his gratuity. Considering his claim, the Controlling Authority has passed the order at Annexure - A dated 22.11.2018 and has directed the respondent to pay the difference of gratuity amount of Rs.1,33,701/- with simple interest at 10% per annum to be calculated from 02.06.2016 onwards. The said order was challenged by the respondent before the Appellate Authority. Vide the impugned order at Annexure-B dated 10.10.2019, the Appellate Authority has partly allowed the appeal and has held that petitioner is entitled only for a sum of Rs.8,342/- from the respondent towards arrear of gratuity. Aggrieved by the said order, the petitioner is before this Court.

4. Perusal of the order impugned at Annexure-B would go to show that for the purpose of calculating the



gratuity payable to the petitioner, the Appellate Authority has taken into consideration his basic salary and the dearness allowance at Rs.5,053/- was not taken into consideration. The Controlling Authority for the purpose of calculating the gratuity payable to the petitioner has rightly taken into consideration the petitioner's last drawn salary and his dearness allowance, whereas the Appellate Authority has only taken into consideration his last drawn salary and has excluded his dearness allowance.

5. Section 2(s) of the Payment of Gratuity Act, 1972 provides for the definition of the word 'wages'. The same reads as follows:

"2(s) "wages" means all emoluments which are earned by an employee while on duty or on leave in accordance with the terms and conditions of his employments and which are paid or are payable to him in cash and includes dearness allowance but does not include any bonus, commission, house rent allowance, overtime wages and any other allowance."

6. From the aforesaid it is very clear that wages would include dearness allowance and therefore, the Appellate Authority was not justified in passing the



impugned order. Under the circumstances, the impugned order at Annexure-B cannot be sustained. Accordingly, the following:

ORDER

- (i) The Writ Petition is ***allowed***.
- (ii) The impugned order at Annexure-B dated 10.10.2019 passed by the Appellate Authority is set aside.

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE

NMS/SWK
List No.: 2 Sl No.: 9
CT-PK