



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 26TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

WRIT PETITION NO. 201904 OF 2024 (L-PG)

BETWEEN:

THE DIVISIONAL CONTROLLER,
K. K. R. T. C., KOPPAL DIVISION, KOPPAL,
(REPRESENTED BY CHIEF LAW OFFICER).

...PETITIONER

(BY SRI. DEEPAK V BARAD, ADVOCATE)

AND:

1. THE LABOUR OFFICER AND
CONTROLLING AUTHORITY,
UNDER THE PAYMENT OF GRATUITY ACT,
AT KALABURAGI-585102.
2. THE ASSISTANT LABOUR COMMISSIONER,
AND APPELLANT AUTHORITY,
UNDER THE PAYMENT OF GRATUITY ACT,
AT KOPPAL-583231.
3. BASAVARAJ
S/O VEERABHADRAPPA KOLIWAD,
AGE: 75 YEARS, OCC: RETIRED EMPLOYEE,
KOPPAL DIVISION, R/O SHIVAPET RON,
TQ AND DIST GADAG-582209.

...RESPONDENTS

(BY SRI SHESHADRI JAISHANKAR M., AGA FOR R1 AND R2;
NOTICE TO R3 SERVED)

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COURT OF
KARNATAKA



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, BY THE ADVOCATE FOR PETITIONER PRAYING THAT THIS HONOURABLE COURT MAY BE PLEASED TO, I) ISSUE A WRIT IN THE NATURE OF CERTIORARI THEREBY QUASHING THE IMPUGNED ORDER DATED 31-01-2024 PASSED BY THE 2ND RESPONDENT IN ಪ್ರಕರಣಸಂಖ್ಯೆ. ಸಕಾಅಕ/ಪಿ ಜಿಎ/ಅಪೀಲು/ಸಿಆರ್- 22/2022 AS AT ANNEXURE-E TO THE WRIT PETITION. II) ISSUE A WRIT IN THE NATURE OF CERTIORARI THEREBY QUASHING THE IMPUGNED ORDER DATED 05-04-2022 PASSED BY THE 1ST RESPONDENT IN ಪ್ರಕರಣ ಸಂಖ್ಯೆ. ಕಾಅಕೋ/ಉಪಾಕಾ/ಸಿಆರ್-01/2016-17 AS AT ANNEXURE-C TO THE WRIT PETITION. III) ISSUE ANY OTHER WRIT, ORDER OR DIRECTION AS THIS HONOURABLE COURT DEEMS FIT IN VIEW OF THE FACTS AND CIRCUMSTANCES OF THE CASE STATED ABOVE.

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 & 227 of the Constitution of India is filed seeking for the following reliefs:

(i) *Issue a writ in the nature of certiorari thereby quashing the impugned order dated 31.01.2024 passed by the 2nd respondent in ಪ್ರಕರಣ ಸಂಖ್ಯೆ. ಸಕಾಅಕ/ಪಿ ಜಿಎ/ಅಪೀಲು/ಸಿಆರ್-22/2022 as at Annexure-E to the writ petition, in the interest of justice and equity;*



(ii) Issue a writ in the nature of certiorari thereby quashing the impugned order dated 05.04.2022 passed by the 2nd respondent in ಪ್ರಕರಣ ಸಂಖ್ಯೆ. ಕಾಅಕೋ/ಉಪಾಕಾ/ಸಿಆರ್-01/2016-17 as at Annexure-C, to the writ petition, in the interest of justice and equity;

(iii) Issue any other writ, order or direction as this Hon'ble Court deems fit in view of the facts and circumstances of the case stated above, in the interest of justice and equity.

2. Heard the learned counsel for the petitioner and the learned Additional Government Advocate for the respondent Nos.1 and 2.

3. Respondent No.3 who is served in the matter, is unrepresented before this Court.

4. The respondent No.3 who was working with the petitioner-corporation, after retirement had filed an application before the controlling authority for payment of gratuity amount. According to the respondent No.3, he had worked with the petitioner-corporation from 30.11.1974 to 30.06.1979 as Badli Conductor and from 01.07.1979 to 31.05.2007 as a permanent employee and had retired from



service on attaining the age of superannuation. The controlling authority vide order at Annexure-C dated 05.04.2022 had held that the respondent No.3 was entitled for a total amount of Rs.77,757/- towards gratuity from the petitioner herein and accordingly, passed an order. The said order was confirmed by the respondent No.1-appellate authority vide order at Annexure-E dated 31.01.2024 and it is under these circumstances, the petitioner is before this Court.

5. Learned counsel for the petitioner submits that, for the period from 01.07.1979 to 31.05.2007, the service of the respondent No.3 was taken into consideration and the gratuity amount is already paid to him. The respondent Nos.1 and 2 have taken into consideration the period from 30.11.1974 to 30.06.1979 when the respondent No.3 was working as a Badli Conductor and has directed the petitioner to pay gratuity amount even for the said period. He has placed reliance on the Judgment of **Lalappa Lingappa and others Vs. Laxmi Vishnu Textile Mills Ltd.,** reported in **(1981) 2 SCC 238** and submits that, the Badli employees



are not entitled for payment of gratuity on becoming permanent employee for the Badli period in respect of the years in which there was no work allotted to them regularly.

6. Per contra, learned Additional Government Advocate has argued in support of the impugned orders passed by the respondent Nos.1 and 2.

7. The material on record would go to show that, respondent No.3 was appointed as a Badli Conductor and had served in the said capacity from 30.11.1974 to 30.06.1979. He was appointed as a permanent employee only on 01.07.1979 and he had retired from the service on 31.05.2007. It appears that, respondent Nos.1 and 2 have taken into consideration the service of respondent No.3 as a Badli worker for calculating the gratuity amount payable by the petitioner.

8. The Hon'ble Supreme Court in the case of **Lalappa** (supra), has held that, the Badli employees are not entitled for payment of gratuity, on becoming permanent employees for Badli period in respect of the years in which



there was no work allotted to them due to their failure to report to duty. In the said case, it is held that, Badli employees are not covered by substantive part of Section 2(c), but they come within its Explanation I.

In paragraph No.18 of the said order, it is observed as follows:

"18. The Report of the Badli Labour Enquiry Committee, Cotton Textile Industry, 1967, no doubt shows that the badli employees are an integral part of the textile industry and that they enjoy most of the benefits of the permanent employees; but there may not be any continuity of service as observed by this Court in the Delhi Cloth Mills case. The badli employees are nothing but substitutes. They are like "spare men" who are not "employed" while waiting for a job: Conlon v. Glasgow. Vallabadas Kanji (P) Ltd. v. Esmail Koya, taking the view to the contrary, does not appear to lay down a good law. Accordingly, we uphold the view that the badli employees are not covered by the substantive part of the definition of "continuous service" in Section 2(c), but came within Explanation I and, therefore, are not entitled to payment of gratuity for the badli period i.e. in respect of the years in which there was no work allotted to them due to their failure to report to duty."

9. Under the circumstances, I am of the opinion that, if the order of the appellate authority is set aside and the matter



is remitted for fresh consideration of the appeal in the light of the observations made herein above, the same would serve the ends of justice.

10. Accordingly the following:

ORDER

(i) The writ petition is partly allowed;

(ii) The impugned order at Annexure-E dated 31.01.2024 passed by the respondent No.1 – appellate authority is set aside and the matter is remitted to the respondent No.1 to consider the appeal afresh in the light of the observations made herein above, after hearing all the parties.

Sd/-
(S.VISHWAJITH SHETTY)
JUDGE