

HIGH COURT OF MADHYA PRADESH : BENCH AT INDORE

S.B.: HON'BLE MR. S. C. SHARMA, J

WRIT PETITION NO. 5453 / 2010

CHIEF EXECUTIVE OFFICER,
DISTT. CO-OPERATIVE KENDRIYA BANK LTD.,
UJJAIN

Vs.

SHARADCHAND GOUD S/O SHADILAL GOUD
* * * * *

O R D E R
(28/2/2011)

The petitioner Bank before this Court has filed this present petition being aggrieved by order dt. 29/2/2008, passed by the Competent Authority under the Payment of Gratuity Act, 1972 as well as order dt. 29/10/2009, passed by the appellate Authority. The contention of the petitioner Bank is that the competent authority while directing payment of gratuity to the respondent has erroneously included dearness relief and interim relief while calculating wages of the petitioner and therefore the order passed by the competent authority and the order affirming the order dt. 29/2/2002 passed by the appellate authority are bad in law.

On the other hand, learned counsel appearing for the

sole respondent has argued before this court that as per definition clause under the Payment of Gratuity Act, 1972, “wages”, as defined u/S. 2(s) includes dearness allowance. However, does not include any bonus, commission or house rent allowance, over time wages and other allowances. He has prayed for dismissal of the writ petition and his contention is that the competent authority has rightly included the dearness allowance.

Heard learned counsel for the parties at length and perused the record.

In the present case, it is an admitted fact that the petitioner was appointed on 29/10/1960 and has attained the age of superannuation on 30th June, 2002 as the Branch Manager. Sec. 2(a)(s) of the Payment of Gratuity Act, 1972 reads as under :

(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 employment 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, over-time wages and any

other allowance.

This court has carefully gone through the order passed by the competent authority and the competent authority while calculating the gratuity has included dearness relief which is permissible as per the provisions of the Payment of Gratuity Act, 1972 and therefore this Court is of the considered opinion that no irregularity of any kind has been committed by the competent authority while passing the order dt. 29/2/08 and the appeal preferred by the respondent Bank has rightly been dismissed by the appellate authority on 29/10/2009.

Resultantly writ petition is dismissed. No order as to costs.

(S. C. SHARMA)
J U D G E

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