

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.L. No. 2894 of 2012

The Indian Steel and Wire Products LimitedPetitioner

Versus

The State of Jharkhand & OthersRespondents

Coram: **HON'BLE MR. JUSTICE NARENDRA NATH TIWARI**

For the Petitioner : Mr. Manish Mishra, Advocate

For the Respondents : JC to A.G.

03/29.10.2012 Petitioner has prayed for quashing the order dated 02.04.2012, passed by the Labour Commissioner cum Appellate Authority under the provisions of the Payment of Gratuity Act, whereby the said authority has rejected the appeal petition filed by the petitioner upholding the order dated 31.03.2010, passed by the Deputy Labour Commissioner cum Controlling Officer, Kolhan Division.

The order has been challenged mainly on the ground that the appellate authority has not taken into consideration the grounds raised before him in right perspective. The petitioner was not at fault in withholding the amount of gratuity of the concerned workman. Payment of gratuity was withheld as the concerned workman did not vacate the quarter given by the Company even after a long period of his retirement. There was dispute regarding the date of birth of the concerned workman. The matter was pending before the Labour Court and that was one of the reasons for delayed payment of the gratuity. The petitioner Company is not liable for payment of interest. Learned appellate authority has summarily rejected the said ground without assigning any valid reason. The order is arbitrary and is liable to be quashed by this Court.

I have heard learned counsel for the petitioner and perused the record. The learned Labour Commissioner cum Appellate Authority under the provisions of Payment of Gratuity Act has dealt with the facts and the grounds taken by the petitioner in detail. The two grounds, on which the petitioner have tried to justify the delay in payment of gratuity have also been specifically discussed and considered by the learned appellate authority. The said grounds have been rejected in view of the provisions of Section 13 of the Payment of Gratuity Act, 1972. Section 13 provides that no amount of gratuity can be forfeited or attached. Withholding of the amount of gratuity on the said grounds is, thus, violative of the said provision and is not justified.

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Learned Labour Commissioner cum Appellate Authority has duly discussed the ground and considered the same in light of the provisions of the said Act. Reasons have been assigned in detail in rejecting the grounds taken by the petitioner.

I find no illegality and arbitrariness in the impugned order warranting any interference with the same by this Court in exercise of writ jurisdiction. This writ application is, accordingly, dismissed.

(Narendra Nath Tiwari, J)

Rakesh/