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**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WPL No. 43 of 2016**

1. State Of Chhattisgarh Through Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, Naya Raipur (Chhattisgarh) (Petitioner No.1 was not a party Before The Learned Labour Court, But Has Been Impleaded As Petitioner No.1 herein as it is necessary To implead The State Govt. Through The Secretary Of Concerned Department.)
2. The Executive Engineer, ( E/ M), Division Raigarh, District Raigarh, (Chhattisgarh)

**---- Petitioner**

**Versus**

1. Shri Nehar Sai S/o Late Shri Bati Ram, R/o Village Jhawar, P.S. Podi, Tahsil Padin Uprodha, District Korba, (Chhattisgarh)
2. The Appellate Authority, Under The Payment Of Gratuity Act, 1972 & Deputy Labour Commissioner, Office Of The Labour Commissioner, Chhattisgarh, Indrawati Bhawan, Naya Raipur, (Chhattisgarh)
3. The Controlling Authority, Under The Payment Of Gratuity Act, 1972 & Assistant Labour Commissioner, Korba, District Korba, (Chhattisgarh)

**---- Respondent**

**WPL No. 47 Of 2016**

1. State Of Chhattisgarh Through Secretary, Water Resources Department, Mahanadi Bhawan, Naya Mantralaya, Naya Raipur, P.S. Mandir Hasaud, Raipur, (Chhattisgarh) (Petitioner No.1 Was Not A Party Before The Learned Labour Court, But Has Been Impleaded As Petitioner No.1 Herein As it is Necessary To Implead The State Govt. Through The Secretary Of Concerned Department)
2. The Executive Engineer, Hasdeo Barrage Water Management Division, Rampur, Korba, District Korba, (Chhattisgarh)

**---- Petitioner**

**Vs**

1. Shri Nanhudas Panika S/o Chhatru Panika, Aged 67 Years Address Sinchai Colony, Rampur, Korba, Police Station Rampur, District

Korba, (Chhattisgarh)

2. The Appellate Authority, Under The Payment Of Gratuity Act, 1972 & Deputy Labour Commissioner, Office Of The Labour Commissioner, Chhattisgarh, Indrawati Bhawan, Naya Raipur, (Chhattisgarh)
3. The Controlling Authority, Under The Payment Of Gratuity Act, 1972 & Assistant Labour Commissioner, Korba, District Korba, (Chhattisgarh)

---- Respondent

**WPL No. 48 Of 2016**

1. State Of Chhattisgarh Through Secretary, Water Resources Department, Mahanadi Bhawan, Naya Mantralaya, Naya Raipur, P. S. Mandir Hasaud Raipur (Chhattisgarh) ....(Petitioner No. 1 Was Not A Party Before The Learned Labour Court, But Has Been Impleaded As Petitioner No. 1 Herein As It Is Necessary To Implead The State Govt. Through The Secretary Of Concerned Department).
2. The Executive Engineer, Hasdeo Barrage Water Management Division, Rampur, Korba, District Korba (Chhattisgarh).

---- Petitioner

**Vs**

1. Shri Bisahu Rao Bhosle S/o Shri Basant Rao Bhosle, Aged 67 Years Address Labour Hat, Sinchai Colony, Darri, Korba, Police Station Rampur, District Korba (Chhattisgarh).
2. The Appellate Authority, Under The Payment Of Gratuity Act, 1972 & Deputy Labour Commissioner, Office Of The Labour Commissioner, Chhattisgarh, Indrawati Bhawan, Naya Raipur (Chhattisgarh).
3. The Controlling Authority, Under The Payment Of Gratuity Act, 1972 & Assistant Labour Commissioner, Korba, District Korba (Chhattisgarh).

---- Respondent

**WPL No. 58 Of 2016**

1. State Of Chhattisgarh Through Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Chhattisgarh ( Petitioner No. 1 Was Not A Party Before The Learned Appellate Authority And the learned Labour Court, But Has Been Impleaded As Petitioner No. 1 Herein As It Is Necessary To Implead The State Govt. Through The Secretary Of Concerned Department )

2. The Executive Engineer, E/M , Light Machinery, Tubewell And Gates Division Durg, Tahsil And Distirct Durg Chhattisgarh

---- Petitioner

**Vs**

1. Shri Jagdish Ram Nirmalkar S/o Shri Faguwa Ram, R/o Village Pirid, Post Chaurel P.S. Gunderdehi Tahsil Gunderdehi, District Balod Chhattisgarh
2. The Appellate Authority, Under The Payment Of Gratuity Act, 1972 & Deputy Labour Commissioner, Office Of The Labour Commissioner, Chhattisgarh, Indrawati Bhawan, Naya Raipur Chhattisgarh
3. The Controlling Authority Under The Payment Of Gratuity Act, 1972 & Assistant Labour Commissioner, Durg, District Durg Chhattisgarh

---- Respondent

**WPL No. 59 OF 2016**

1. State Of Chhattisgarh Through Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Chhattisgarh ( Petitioner No. 1 Was Not A Party Before The Learned Appellate Authority And the learned Labour Court, But Has Been Impleaded As Petitioner No. 1 Herein As It Is Necessary To Implead The State Govt. Through The Secretary Of Concerned Department )
2. The Executive Engineer, E/M , Light Machinery, Tubewell And Gates Division Durg, Tahsil And District Durg Chhattisgarh

---- Petitioner

**Vs**

1. Shri Dadu Ram Yadav S/o Shri Bhagoli Ram Yadav, R/o Village Padaki Bhath, Post Tekapar, P.S. Balod Tahsil And District Balod Chhattisgarh
2. The Appellate Authority, Under The Payment Of Gratuity Act, 1972 & Deputy Labour Commissioner, Office Of The Labour Commissioner, Chhattisgarh, Indrawati Bhawan, Naya Raipur Chhattisgarh
3. The Controlling Authority Under The Payment Of Gratuity Act, 1972 & Assistant Labour Commissioner, Durg, District Durg Chhattisgarh

---- Respondent

**WPL No. 63 OF 2016**

1. State Of Chhattisgarh Through Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Chhattisgarh ( Petitioner No. 1 Was Not A Party Before The Learned Appellate Authority And Learned Labour Court, But Has Been Impleaded As Petitioner No. 1 Herein As It Is Necessary To Implead The State Govt. Through The Secretary Of Concerned Department )
2. The Executive Engineer, E/M , Light Machinery, Tubewell And Gates Division Durg, Tahsil And Distirct Durg Chhattisgarh

---- Petitioner

**Vs**

1. Shri Manohar Lal Deshmukh S/o Late Shri Tej Ram Deshmukh, R/o Villag Pirid, Post Chaurel, P.S. Gunderdehi, Tahsil Gunderdehi, And District Balod Chhattisgarh
2. The Appellate Authority, Under The Payment Of Gratuity Act, 1972 & Deputy Labour Commissioner, Office Of The Labour Commissioner, Chhattisgarh, Indrawati Bhawan, Naya Raipur Chhattisgarh
3. The Controlling Authority Under The Payment Of Gratuity Act, 1972 & Assistant Labour Commissioner, Durg, District Durg Chhattisgarh

---- Respondent

**WPL No. 61 OF 2016**

1. State Of Chhattisgarh Through Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Chhattisgarh ( Petitioner No. 1 Was Not A Party Before The Learned Appellate Authority And the learned Labour Court, But Has Been Impleaded As Petitioner No. 1 Herein As It Is Necessary To Implead The State Govt. Through The Secretary Of Concerned Department )
2. The Executive Engineer, E/M , Light Machinery, Tubewell And Gates Division Durg, Tahsil And Distirct Durg Chhattisgarh

---- Petitioner

**Vs**

1. Shri Arjun Singh Sahu S/o Shri Uttam Singh Sahu, R/o Village Tekri, Post Arjunda, P.S. Arjunda, Tahsil And District Balod Chhattisgarh

2. The Appellate Authority, Under The Payment Of Gratuity Act, 1972 & Deputy Labour Commissioner, Office Of The Labour Commissioner, Chhattisgarh, Indrawati Bhawan, Naya Raipur Chhattisgarh
3. The Controlling Authority Under The Payment Of Gratuity Act, 1972 & Assistant Labour Commissioner, Durg, District Durg Chhattisgarh

---- Respondent

**WPL No. 65 Of 2016**

1. State Of Chhattisgarh Through Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Chhattisgarh ( Petitioner No. 1 Was Not A Party Before The Learned Appellate Authority And Learned Labour Court, But Has Been Impleaded As Petitioner No. 1 Herein As It Is Necessary To Implead The State Govt. Through The Secretary Of Concerned Department )
2. The Executive Engineer, E/M , Light Machinery, Tubewell And Gates Division Durg, Tahsil And Distirct Durg Chhattisgarh

---- Petitioner

**Vs**

1. Shri Ramkishun Sahu S/o Shri Johan Ram Sahu, R/o Village And Post Baghmara P.S. Balod Tahsil And District Balod Chhattisgarh
2. The Appellate Authority, Under The Payment Of Gratuity Act, 1972 & Deputy Labour Commissioner, Office Of The Labour Commissioner, Chhattisgarh, Indrawati Bhawan, Naya Raipur Chhattisgarh
3. The Controlling Authority Under The Payment Of Gratuity Act, 1972 & Assistant Labour Commissioner, Durg, District Durg Chhattisgarh

---- Respondent

**WPL No. 60 Of 2016**

1. State Of Chhattisgarh Through Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Chhattisgarh ( Petitioner No. 1 Was Not A Party Before The Learned Appellate Authority And Learned Labour Court, But Has Been Impleaded As Petitioner No. 1 Herein As It Is Necessary To Implead The State Govt. Through The Secretary Of Concerned Department )

2. The Executive Engineer, E/M , Light Machinery, Tubewell And Gates Division Durg, Tahsil And Distirct Durg Chhattisgarh

---- Petitioner

**Vs**

1. Smt. Nirmla Bai W/o Late Amar Singh Sahu, R/o Village Faundah, Post Gurur, P.S. And Tahsil Gurur, District Balod Chhattisgarh
2. The Appellate Authority, Under The Payment Of Gratuity Act, 1972 & Deputy Labour Commissioner, Office Of The Labour Commissioner, Chhattisgarh, Indrawati Bhawan, Naya Raipur Chhattisgarh
3. The Controlling Authority Under The Payment Of Gratuity Act, 1972 & Assistant Labour Commissioner, Durg, District Durg Chhattisgarh

---- Respondent

**WPL No. 64 OF 2016**

1. State Of Chhattisgarh Through Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Chhattisgarh ( Petitioner No. 1 Was Not A Party Before The Learned Appellate Authority And Learned Labour Court, But Has Been Impleaded As Petitioner No. 1 Herein As It Is Necessary To Implead The State Govt. Through The Secretary Of Concerned Department )
2. The Executive Engineer, E/M , Light Machinery, Tubewell And Gates Division Durg, Tahsil And District Durg Chhattisgarh

---- Petitioner

**Vs**

1. Shri Mannu Lal Joshi S/o Shri Ramcharan Joshi, R/o Village And Post Biretara ( Bhathagaon), P.S. Balod, Tahsil And District Balod Chhattisgarh
2. The Appellate Authority, Under The Payment Of Gratuity Act, 1972 & Deputy Labour Commissioner, Office Of The Labour Commissioner, Chhattisgarh, Indrawati Bhawan, Naya Raipur Chhattisgarh
3. The Controlling Authority Under The Payment Of Gratuity Act, 1972 & Assistant Labour Commissioner, Durg, District Durg Chhattisgarh

---- Respondent

**WPL No. 62 OF 2016**

1. State Of Chhattisgarh Through Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Chhattisgarh ( Petitioner No. 1 Was Not A Party Before The Learned Appellate Authority And Learned Labour Court, But Has Been Impleaded As Petitioner No. 1 Herein As It Is Necessary To Implead The State Govt. Through The Secretary Of Concerned Department )
2. The Executive Engineer, E/M , Light Machinery, Tubewell And Gates Division Durg, Tahsil And Distirct Durg Chhattisgarh

**---- Petitioner**

**Vs**

1. Shri Baburam Kamal W/o Shri Kartik Ram Kamal, R/o Village Post Balod, Mararpara P.S. Balod, Tahsil And District Balod Chhattisgarh
2. The Appellate Authority, Under The Payment Of Gratuity Act, 1972 & Deputy Labour Commissioner, Office Of The Labour Commissioner, Chhattisgarh, Indrawati Bhawan, Naya Raipur Chhattisgarh
3. The Controlling Authority Under The Payment Of Gratuity Act, 1972 & Assistant Labour Commissioner, Durg, District Durg Chhattisgarh

**---- Respondent**

**WPL No. 66 OF 2016**

1. State Of Chhattisgarh Through Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Chhattisgarh ( Petitioner No. 1 Was Not A Party Before The Learned Appellate Authority And Learned Labour Court, But Has Been Impleaded As Petitioner No. 1 Herein As It Is Necessary To Implead The State Govt. Through The Secretary Of Concerned Department )
2. The Executive Engineer, E/M , Light Machinery, Tubewell And Gates Division Durg, Tahsil And Distirct Durg Chhattisgarh

**---- Petitioner**

**Vs**

1. Smt. Champa Bai W/o Late Deendayal R/o Village And Post Nahanda, P.S. And Tahsil Doundilohara And District Balod Chhattisgarh
2. The Appellate Authority, Under The Payment Of Gratuity Act,

1972 & Deputy Labour Commissioner, Office Of The Labour Commissioner, Chhattisgarh, Indrawati Bhawan, Naya Raipur Chhattisgarh

3. The Controlling Authority Under The Payment Of Gratuity Act, 1972 & Assistant Labour Commissioner, Durg, District Durg Chhattisgarh

---- Respondent

**WPL No. 67 Of 2016**

1. State Of Chhattisgarh Through Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Chhattisgarh ( Petitioner No. 1 Was Not A Party Before The Learned Appellate Authority And Learned Labour Court, But Has Been Impleaded As Petitioner No. 1 Herein As It Is Necessary To Implead The State Govt. Through The Secretary Of Concerned Department )
2. The Executive Engineer, E/M , Light Machinery, Tubewell And Gates Division Durg, Tahsil And Distirct Durg Chhattisgarh

---- Petitioner

**Vs**

1. Shri Yugal Kishore Sahu S/o Late Bishesar Sahu, R/o Village And Post Newarikala P.S. Balod, Tahsil And District Balod Chhattisgarh
2. The Appellate Authority, Under The Payment Of Gratuity Act, 1972 & Deputy Labour Commissioner, Office Of The Labour Commissioner, Chhattisgarh, Indrawati Bhawan, Naya Raipur Chhattisgarh
3. The Controlling Authority Under The Payment Of Gratuity Act, 1972 & Assistant Labour Commissioner, Durg, District Durg Chhattisgarh

---- Respondent

**And**

**WPL No. 68 Of 2016**

1. State Of Chhattisgarh Through Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Chhattisgarh ( Petitioner No. 1 Was Not A Party Before The Learned Appellate Authority And Learned Labour Court, But Has Been Impleaded As Petitioner No. 1 Herein As It Is Necessary To Implead The State Govt. Through The Secretary Of Concerned Department )
2. The Executive Engineer, E/M , Light Machinery, Tubewell And



Gates Division Durg, Tahsil And Distirct Durg Chhattisgarh

---- Petitioner

Vs

- 1. Shri Kirtan Ram Thakur S/o Shri Dayal Ram Tahkur R/o Village And Post Nipani, P.S. Balod Tahsil And District Balod Chhattisgarh
- 2. The Appellate Authority, Under The Payment Of Gratuity Act, 1972 & Deputy Labour Commissioner, Office Of The Labour Commissioner, Chhattisgarh, Indrawati Bhawan, Naya Raipur Chhattisgarh
- 3. The Controlling Authority Under The Payment Of Gratuity Act, 1972 & Assistant Labour Commissioner, Durg, District Durg Chhattisgarh

---- Respondent

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For Petitioners/STate	Mr. Shashank Thakur, Govt. Advocate
For Respective Respondents	Mr. KPS Gandhi and Mr. Aditya Kumar Advocates

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Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

31/3/2016

- 1. These writ petitions under Article 226/227 of the Constitution of India have been preferred by the State of Chhattisgarh to assail the orders passed by the appellate authority under the Payment of Gratuity Act, 1972 (for short 'the Act, 1972'), whereby the appeals preferred by the petitioners have been dismissed on the ground of limitation.
- 2. The controlling authority under the Act, 1972 allowed the respondents/workmen's claim for payment of gratuity by including the services rendered by them in the capacity of daily

wager for calculation of qualifying service.

3. It is argued by learned counsel for the petitioners/State that the law applicable to the issue arising in the matter has been set at rest by this Court in the matter of **State of Chhattisgarh & Anr. Vs. Netram Sahu & Anr. (WPL No.178/2013, decided on 16-12-13)**; affirmed by the Division Bench in WA No. 240/14 (**Netram Sahu Vs. State of Chhattisgarh & Others, decided on 1-8-2014**). He would further submit that the delay in filing the appeals was properly explained and the appeals were duly preferred by the officer authorized by the Government to prefer the appeal for the cases arising out of the concerned Water Resources Division.
4. Having heard learned counsel for the parties, this Court is of the considered opinion that substantial legal issues having been raised in the appeals, the appellate authority should have considered the appeals on merits. True it is that the application for condonation of delay was not properly drafted yet, since the issue concerns large number of employees and the Government's financial stakes are also involved and moreover, this High Court has already decided the issue pertaining to a daily wager's entitlement to gratuity, the delay in filing the appeals should have been condoned.
5. Since the appeals have not been decided on merits nor the law settled by the Division Bench of this Court in the matter of **Netram (*supra*)** has been adverted to by the appellate authority, the matter deserves to be remitted back to the appellate authority for consideration on merits.

6. Accordingly, all the writ petitions are disposed of with a direction to the appellate authority under the Act, 1972 to consider and decide the appeals on its own merits by a speaking order.

Sd/-

Judge  
(Prashant Kumar Mishra)

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