

R. Balurao Vs. the Divisional Controller and Others

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Court : Karnataka

Decided On : Feb-24-2014

Judge : Ram Mohan Reddy

Appeal No. : Writ Petition No. 56414 of 2013 (L-PG)

Appellant : R. Balurao

Respondent : The Divisional Controller and Others

Judgement :

(Prayer: This Writ Petition Is Filed Under Articles 226 and 227 of Constitution of India Praying To Call For The Entire Records From The R2 and R3 Pertaining To Ann-B and D And Quash The Order Dt. 11.7.2011 Passed By The R3 The Certified Copy Of Which Is Produced And Marked As Ann-B To The Extent The Petitioner Is Aggrieved; ETC.)

1. Petitioner having served the first respondent Road Transport Corporation as an Artisan from 23-4-70 upto 31-3-2003, the date of retirement, was entitled to gratuity on superannuation having served the corporation for 33 years. The basic pay of the petitioner on retirement was Rs.8626/- while the D.A. was Rs.4743/-. Under the provisions of the Gratuity Act, 1972 ('the Act' for short) determination of gratuity of the petitioner is done on the basis of the formula: [Basic pay + D.A.] x 15 x No. of years 26 service which comes to Rs.2,54,506/-, while the determination under the K.S.R.T.C Regulations ('the Regulations' for short) the

same is worked out by the formula: basic pay x 32 years x 11 months, which comes to Rs.2,83,906/-.

2. Petitioner is entitled to the benefit of the Regulations since it is more beneficial than the gratuity determinable under the Act. Petitioner was paid Rs.2,78,875/- when he filed an application before the controlling authority under the Act for redetermination of the gratuity whence the controlling authority by order dated 11-7-2011, Annexure-B, determined gratuity at Rs.2,83,906/- under the Regulations and having noticed that petitioner had been paid Rs.2,78,875/- directed payment of balance of Rs.5,031/- with interest at 10% per annum.

3. Petitioner aggrieved by that order filed an appeal before the appellate authority who confirmed the order of the controlling authority and dismissed the appeal by order dated 10-11-2012, Annexure-D. Hence this petition.

4. Learned counsel for the petitioner is unable to point out any other provision in the Regulations by which the petitioner would be entitled to a determination of the gratuity in excess of Rs.2,83,906/-. Regard being had to the Regulations under which the petitioner is entitled to the determination of gratuity and in the admitted fact that determination of gratuity under the Act is less beneficial to the petitioner, no exception can be taken to the amounts determined by both the controlling and appellate authority, under the orders impugned.

5. In the result the petition, devoid of merit, is accordingly rejected. The authorities under the Act are directed to forthwith make payment of the money in deposit to the petitioner.

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