

Sri. Azeez Ali vs the Divisional Controller

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Court : Karnataka Orders

Decided On : Mar-01-2024

Judge : S.G.Pandit

Appeal No. : WP/39858/2014

Appellant : Sri. Azeez Ali

Respondent : The Divisional Controller

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF MARCH, 2024 BEFORE THE HON'BLE MR JUSTICE S.G.PANDIT WRIT PETITION NO.39858 OF 2014 (L-KSRTC) BETWEEN: SRI. AZEEZ ALI, BIN LATE YAKUB ALI, AGED ABOUT 60 YEARS, R/AT MAZEED STREET, MUNIYAPPA GARDENS, NELASANDRA, BANGALORE - 560 047. PETITIONER (BY SRI. L. SHEKAR, ADVOCATE) AND:

1. THE DIVISIONAL CONTROLLER, K.S.R.T.C. CENTRAL DIVISION OFFICE, K.H.ROAD, SHANTINAGAR, BANGALORE - 560 027.

2. THE ASSISTANT LABOUR COMMISSIONER & CONTROLLING AUTHORITY, UNDER THE PAYMENT OF GRATUITY ACT 1972, DIVISION-4, KARMIKA BHAVAN, Digitally signed BANNERUGHATTA ROAD, BANGALORE - 560 029. by A K

CHANDRIKA

3. THE DEPUTY LABOUR COMMISSIONER Location

KARNATAKA REGION-2, KARMIKA BHAVAN, BANGALORE - 560 029. RESPONDENTS (BY SMT. H.R. RENUKA, ADVOCATE FOR R1; SRI. BOPANNA BELLIAPPA, AGA FOR R2 AND R3) THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO MODIFY THE IMPUGNED

ORDER PASSED BY THE R2 & R3 DATED.31.5.10 & VIDE

DATED.30.12.12, RESPECTIVELY VIDE ANNEXURE-A & B RESPECTIVELY AND ETC. -2- THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner, who was working as Driver in the Karnataka State Road Transport Corporation (for short 'KSRTC') is before this Court, questioning the order bearing No.ALC/B4/PGA/CR/327/06-07 dated 31.05.2010 (Annexure-A) passed by the Controlling Authority as well as order bearing No.DLC/B2/PGA/CR-66/2010-11 dated 30.12.2012 passed by the Appellate Authority (Annexure-B), wherein the Appellate

Authority modified the order passed by the Controlling Authority granting difference of gratuity amount in a sum of Rs.23,744/- with interest of 6% per annum. The petitioner has also sought for a direction to release the difference of gratuity amount of Rs.79,922/- with interest at the rate of 10% per annum as per Central Government Notification.

2. Heard Sri. L.Shekar, learned counsel for the petitioner and Smt. H.R.Renuka, learned counsel for respondent No.1-KSRTC. Perused the writ petition papers. -3-

3. Sri. L.Shekar, learned counsel for the petitioner

would submit that he would not press prayer No.2 in the writ petition and the petitioner would restrict his prayer with regard to the rate of interest and to direct the respondents to pay difference of gratuity amount of Rs.23,744/- as ordered by the Appellate Authority.

4. Learned counsel for the petitioner would submit that the petitioner took voluntary retirement from the

respondent-KSRTC on 01.04.2006. The petitioner filed application before the Controlling Authority under Section 7(4) of the Payment of Gratuity Act, 1972 (for short '1972 Act') claiming difference of gratuity contending that he was entitled for total gratuity amount of Rs.1,65,614/-, whereas the respondent-KSRTC paid only Rs.81,414/- as gratuity. After enquiry, the Controlling Authority under order dated 31.05.2010 directed the respondent-KSRTC to pay a sum of Rs.20,182/- towards difference of gratuity and to pay interest at the rate of 10% from 01.05.2006.

5. The petitioner not being satisfied with the order

passed by the Controlling Authority, filed an appeal before the -4- Appellate Authority i.e., Deputy Labour Commissioner under Section 7(7) of the 1972 Act. Respondent No.3-Appellate Authority by order dated 30.12.2012 directed the respondent- KSRTC to pay a sum of Rs.23,744/- difference of gratuity with interest at the rate of 6% per annum. Learned counsel for the

petitioner would contend that the amount calculated at Rs.23,744/- as difference of gratuity amount is correct. But he would only submit that the Appellate Authority committed an error in directing the respondent-KSRTC to pay 6% interest reducing the same from 10% as granted by the Controlling Authority. Learned counsel further submits that in terms of Section 7(3A) of 1972 Act, the workmen would be entitled for the interest on the gratuity amount at such rate, not exceeding the rate notified by the Central Government from time to time. He submits that at the relevant of point time, the Central Government had notified the rate of interest at 10% per annum.

6. Per contra, Smt. H.R.Renuka, learned counsel for the respondent-KSRTC would not dispute the rate of interest notified as on that date. Further, it is also not disputed with -5- regard to difference of gratuity amount as directed by the Appellate Authority in a sum of Rs.23,744/-.

7. It is an admitted fact that the respondents have not

challenged the orders passed by the Controlling Authority as well as Appellate Authority. The rate of interest at the relevant point of time, notified by the Central Government was 10% per

annum. The Controlling Authority rightly granted interest at the rate of 10%, but the Appellate Authority could not have reduced the interest rate from 10% to 6% in the facts and circumstances of this case as there is no delay in approaching the Authority. Moreover 10% was the notified interest rate at relevant point of time. The petitioner would be entitled for the interest as notified under Section 7(3A) of 1972 Act. Moreover, the respondent-KSRTC has not questioned the order of the Controlling Authority.

8. In the above circumstances, the respondent-KSRTC

is directed to deposit a sum of Rs.23,744/-, if not already deposited along with interest at the rate of 10% as directed by the Controlling Authority. The deposit shall be made with the -6- Controlling Authority within four weeks from the date of receipt of a copy of this order. With the above, writ petition stands disposed off.
Sd/- JUDGE SMJ List No.: 1 Sl No.: 25

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