



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF DECEMBER, 2023

BEFORE

THE HON'BLE MS. JUSTICE JYOTI MULIMANI

WRIT PETITION NO.3649 OF 2023 (L-PG)

BETWEEN:

KARNATAKA STATE ROAD
TRANSPORT CORPORATION,
BANGALORE CENTRAL DIVISION,
BANGALORE.
BY ITS DIVISIONAL CONTROLLER,
REPRESENTED BY ITS CHIEF LAW OFFICER.

...PETITIONER

(BY SMT. H.R.RENUKA., ADVOCATE)

AND:

1. THE ASSISTANT LABOUR COMMISSIONER
AND THE APPELLATE AUTHORITY,
UNDER THE PAYMENT OF GRATUITY ACT,
DIVISION - 4, KARMEEKA BHAVAN,
BANNERTHATTA ROAD,
BANGALORE - 560 029.
2. THE ASSISTANT LABOUR COMMISSIONER
AND CONTROLLING AUTHORITY,
UNDER THE PAYMENT OF GRATUITY ACT,
SUB-DIVISION-4, KARMEEKA BHAVAN,
BANNERGHATTA ROAD,
BANGALORE - 560 029.
3. RAMU
S/O LATE MUNISWAMY,
ADULT,
R/O NO. 302, 4TH CROSS,
RAMAKRISHNA HEGDE NAGAR,
SRK POST, BANGALORE - 560 077.

...RESPONDENTS

(BY SMT. V.SPOORTHI., HCGP FOR R1 AND R2;
SRI. SATISH.K., ADVOCATE FOR R3)





THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, SEEKING CERTAIN RELIEFS.

THIS WRIT PETITION IS COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Smt.H.R.Renuka., learned counsel for the petitioner, Smt.V.Spoorthi., learned HCGP for respondents 1 & 2 and Sri.Satish.K., learned counsel for respondent No.3 have appeared in person.

2. The brief facts are these:

The third respondent was a workman in the establishment of the Corporation. On an act of misconduct, he was dismissed from service on 16.05.2015. He raised a dispute before the Labour Court, Bengaluru in I.D.No.40/2015 and the same came to be dismissed. The workman questioned the award before this Court in W.P.No.51066/2019. As on the date of filing of the present Writ Petition, the W.P.No.51066/2019 was pending. The Writ Petition was disposed of and the matter was remanded to the Labour Court vide order dated



12.04.2023. The respondent filed an application before the Controlling Authority seeking payment of gratuity. The Corporation did not contest the said application. The Controlling Authority vide order dated:29.06.2018 determined the gratuity amount payable to the third respondent. As against the order of the Controlling Authority, the Corporation preferred an appeal before the Appellate Authority and the same was allowed vide order dated:12.02.2019 and the same was remitted to the Controlling Authority for fresh adjudication.

After remand, the Controlling Authority vide order dated:30.12.2020 determined the gratuity and directed the Corporation to pay a sum of Rs.2,68,800/- (Rupees Two Lakh Sixty Eight Thousand and Eight Hundred only) as per the Gratuity Regulations and interest from 17.09.2016 to 12.01.2018 at Rs.57,841/- (Rupees Fifty Seven Thousand Eight Hundred and Forty One only). As against the order of the Controlling Authority, the Corporation preferred an appeal before the Appellate Authority. The Appellate Authority vide order dated:21.06.2022 rejected the appeal. The orders of the Gratuity Authorities are called into question in this Writ Petition



on several grounds as set-out in the Memorandum of Writ Petition.

3. Learned counsel for the petitioner and respondent No.3 have urged several contentions. Heard, the contentions urged on behalf of the respective parties and perused the Writ papers with utmost care.

4. The point that requires consideration is whether the application for payment of gratuity is maintainable.

5. Smt.H.R.Renuka., learned counsel appearing on behalf of the Corporation in presenting her arguments vehemently contended that the application filed by the workman seeking payment of gratuity is not maintainable, since he has questioned the order of dismissal by raising a dispute before the Labour Court and the same is pending adjudication.

Counsel Sri.Satish.K., acknowledges the submission about pendency of the dispute before the Labour Court.

6. The facts are sufficiently stated and do not require reiteration. It is not in dispute that the workman was dismissed



from service on 16.05.2015 on the proved charge of misbehavior with the checking officials as also obstructed the process of checking. It is also not in dispute that he has questioned the order of dismissal before the Labour Court, Bengaluru in I.D.No.40/2015 and the same is pending consideration. In effect, it can be safely concluded that he has questioned the order of dismissal and he has not accepted the order of dismissal.

Suffice it to note that an employee is eligible for payment of gratuity in the event of superannuation, retirement, resignation and death or total disablement due to accident of deceased employee. In the present case, the workman is dismissed from the service and he has not accepted the order of dismissal and he has questioned the same before the Labour Court. Hence, he cannot file an application claiming that he is eligible for payment of gratuity. The Gratuity Authorities have failed to take note of the fact that the workman has questioned the order of dismissal. Hence, he is not eligible for payment of gratuity. The application filed by the workman for payment of gratuity is premature.



For the reasons stated above, the orders passed by the Gratuity Authorities are liable to be quashed. Accordingly, they are quashed.

7. The Writ of Certiorari is ordered. The order dated:30.12.2020 passed by the Controlling Authority in ಪ್ರಕರಣ ಸಂಖ್ಯೆ: ಕಾಲಬೆಂ-4/ಪಿಜಿಎ/ಸಿಆರ್-70/2018-19 vide Annexure-C and the order dated:21.06.2022 passed by the Appellate Authority in ಸಂ.ಸಕಾಲಬೆಂ-4/ಉಪಾಕಾ/ಸಿಆರ್-02/2021-22 vide Annexure-D are quashed.

8. As a result, the Writ Petition is ***allowed***.

In view of disposal of the Writ Petition, the Controlling Authority is directed to refund the amount in deposit to the Corporation.

**Sd/-
JUDGE**

TKN
List No.: 1 Sl No.: 16