



2024:KER:91694

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN

WEDNESDAY, THE 4TH DAY OF DECEMBER 2024/13TH AGRAHAYANA, 1946

WP(C) NO. 36274 OF 2024

PETITIONER:

SADHOO BEEDI ENTERPRISES
REPRESENTED BY ITS MANAGING PARTNER
MR.VINOD P. P
KAKKAD, KANNUR, PIN - 670 002.

BY ADVS.
D.REETHA
P.V.VINOD (BENGALAM)
SHIYAS K.R.

RESPONDENTS:

- 1 THE CONTROLLING AUTHORITY
UNDER THE PAYMENT OF GRATUITY ACT
SN PARK ROAD KANNUR, PIN - 670 001.
- 2 K. RAMESAN
KARTHIYARETH HOUSE
ATHIRAKAM P.O, MUNDAYAAD
KANNUR, PIN - 670 594.

BY ADVS.
K.P.SREEKUMAR
P.M.SATHEESH
SMT.ANIMA. N - GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 04.12.2024, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



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'CR'

JUDGMENT

The petitioner is an establishment covered under the Payment of Gratuity Act, 1972 (hereinafter referred to as 'the Act', for short). The 2nd respondent employee, who retired from the establishment on 30.04.2017 on superannuation, submitted Ext.P1 application under Rule 10(1) of the Kerala Payment of Gratuity Rules, 1973, before the 1st respondent Controlling Authority, contending that the employer refused to pay the full gratuity due to him. The 1st respondent passed Ext.P2 order under Section 7(4) of the Act directing the petitioner to pay the 2nd respondent the balance gratuity amount of Rs.1,04,291/- with 10% interest from 19.05.2019 and interest at the rate of 10% per annum from 01.05.2017 to 18.05.2019 on



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Rs.1,14,291/- within 30 days from the date of receipt of the order. No appeal has been preferred against Ext.P2 under Section 7(7) of the Act. Since the amount ordered in Ext.P2 was not paid to the 2nd respondent, the 1st respondent issued Ext.P3 show cause notice directing the petitioner to show cause why action should not be taken to recover the amount under Section 8 of the Act. To Ext.P3, the petitioner submitted Ext.P4 reply requesting to permit the petitioner to pay the amount ordered in Ext.P2 in 12 equal installments. The request of the petitioner was rejected by the 1st respondent by Ext.P5 communication and the petitioner was directed to pay the gratuity ordered in Ext.P2 within 7 days of receipt of Ext.P5. Challenging Exts.P3 and Ext.P5, the petitioner has preferred this writ petition.



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2. As stated, Ext.P2 order of the 1st respondent has become final as the petitioner has not filed any appeal. Ext.P2 is not under challenge before this Court also. The 2nd respondent has not given any written consent to receive the gratuity in installments. It is submitted by the petitioner that the establishment is facing serious financial doldrums and it is not possible to pay gratuity to the 2nd respondent in lump sum.

3. Heard the learned counsel for the petitioner, the learned counsel for the 2nd respondent and the learned Government Pleader.

4. As per Section 7(2) of the Act, as soon as the gratuity becomes payable to an employee, the employer shall, whether an application has been made or not, determine the amount of gratuity. Section 7(3) provides that the employer shall



arrange to pay the amount of gratuity, within 30 days from the date it becomes payable. Section 7(4)(b) provides that if there is any dispute as to the amount of gratuity payable to an employee under the Act or as to the admissibility of any claim for payment of gratuity, the employer or employee or any other person raising the dispute may make an application to the Controlling Authority for deciding the dispute. Section 7(4)(c) provides that the Controlling Authority shall determine the dispute and if amount is found payable to the employee, shall direct the employer to pay such amount or as the case may be, such amount as reduced by the amount already deposited by the employer. Ext.P2 is an order passed by the Controlling Authority under Section 7(4)(c). Since the petitioner did not pay the



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amount as ordered in Ext.P2, Ext.P3 show cause notice was issued. The petitioner submitted Ext.P4 reply requesting to permit the petitioner to pay the amount in 12 equal installments. The same was rejected by the 1st respondent by Ext.P5 on the ground that gratuity cannot be paid in installments. The relief prayed for in the writ petition is to allow the petitioner to make payment of the amount ordered in Ext.P2 in 12 installments.

5. The question to be considered in this writ petition is whether gratuity can be paid in installments. The Hon'ble Supreme Court in **Maniben Maganbhai Bhariya v. District Development Officer, Dahod and Others** [2022 KHC 6461 : AIR 2022 SC 2119], while considering the object and scope of the Payment of Gratuity Act, 1972, observed as follows:



“7. Act, 1972 on the genre of Statutes like The Minimum Wages Act, Employees State Insurance Act, etc. is a welfare measure to secure social and economic justice to employees to assist them in old age and to ensure them a decent standard of life on retirement.

8. Derived from a Latin word 'Gratuitas', the term Gratuity means a 'Gift.' In the industrial sector, gratuity is considered as a gift from the employers to their employees. Gratuity is a lump sum payment paid by an employer to the employee for his/her past dedicated services. It is a gesture to appreciate the efforts of a person towards the betterment, development and prosperity of an establishment and that is the reason for which gratuity is considered to be a social security, and with passage of time, it has become a statutory obligation on the part of employers.”

'Gratuity' is a gratuitous lump sum payment given by an employer to an employee upon the termination of his employment due to superannuation, retirement, resignation, death, or disablement caused by an accident or disease. While pension is payable periodically, gratuity is paid only once on termination of employment. The



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law does not provide for payment of gratuity in installments as the purpose of gratuity is to serve as a retirement or terminal benefit ensuring immediate financial support to the employee or their dependents, as the case may be. It provides financial protection during the autumn years of a retired employee's life. Financial distress of the employer is not at all an excuse for denying or delaying payment of gratuity, which provides socio-economic security to the employee. Gratuity is to be paid in lump sum, that too, within 30 days from the date it becomes payable. Ext.P2 order directing the petitioner to pay gratuity was passed on 21.11.2023. No further time can be granted to the petitioner for payment of gratuity as ordered in Ext.P2. Pursuant to the interim order of this Court dated 21.10.2024, the petitioner has deposited an



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amount of Rs.20,000/- with the 1st respondent as condition for stay of further proceedings pursuant to Ext.P5. The petitioner shall deposit the balance amount along with interest before the 1st respondent within 30 days from the date of receipt of a copy of this judgment. On such deposit, the 1st respondent shall disburse the amount to the 2nd respondent within a period of ten days therefrom.

The writ petition is disposed of accordingly.

Sd/-

**MURALI PURUSHOTHAMAN
JUDGE**

SPR



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APPENDIX

PETITIONER'S EXHIBITS: -

- EXHIBIT P1 THE TRUE COPY OF THE APPLICATION VIDE DATED 30.07.2021.
- EXHIBIT P2 THE TRUE COPY OF THE ORDER VIDE DATED 21.11.2023 BY THE DEPUTY LABOUR COMMISSIONER KANNUR.
- EXHIBIT P3 A COPY OF THE SHOW CAUSE NOTICE DATED 31.01.2024.
- EXHIBIT P4 A COPY OF THE REPLY NOTICE DATED 08.02.2024.
- EXHIBIT P5 A COPY OF THE REPLY NOTICE DATED 14.02.2024.

RESPONDENTS EXHIBITS: NIL.