

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(L). No. 1627 of 2020

Principal, Delhi Public School, Ranchi **Petitioner**

-Versus-

1. Union of India through its Secretary, Labour, Employment & Training, New Delhi
2. State of Jharkhand through Secretary, Labour, Employment & Training Ranchi.
3. Dy. Labour Commissioner-cum-Competent Authority (State of Jharkhand) under Payment of Gratuity Act, 1972, Labour, Employment & Training, Ranchi.
4. Trilok Nath Mukherjee, son of B.K. Mukherjee

... **Respondents**

CORAM: THE HON'BLE MR. JUSTICE DR. S.N.PATHAK
(Through: Video Conferencing)

For the Petitioner : Mr. Vijay Kant Dubey, Advocate
For the UoI : Mr. Prashant Singh, CGC
For the State : Mr. Amritansu Singh, AC to SC (Mines)

02/ 24.06.2020 In view of outbreak of COVID-19 pandemic, case has been taken up through Video Conferencing. Concerned lawyers have no objection with regard to the proceeding, which has been held through Video Conferencing today at 10:30 A.M. onwards. They have no complaint in respect to the audio and video clarity and quality.

Heard learned counsel for the parties.

The present writ petition has been filed for quashing the order dated 28.11.2019 passed in P. G. Case No. 03 of 2018 by Dy. Labour Commissioner whereby he has rejected the application dated 07.07.2018 filed by the petitioner challenging the maintainability of complaint case filed by respondent No. 4 before the Dy. Labour Commissioner-cum-Controlling Authority (State of Jharkhand) under the Payment of Gratuity Act for payment of gratuity on the basis of his termination by the Management.

The only dispute raised before this Court is regarding the jurisdiction of the appropriate Government.

Section 2 (a) of the Payment of Gratuity Act, 1972 is quoted hereunder:

“2. Definitions.- In this Act, unless the context otherwise requires,-

(a) “appropriate Government” means,-

(i) in relation to an establishment:-

(a) belonging to, or under the control of, the Central Government

(b) having branches in more than one State

(c) of a factory belonging to, or under the control of, the Central Government.

(d) of a major port, mine, oilfield or railway company, the Central Government.

(ii) in any other case, the State Government.”

It has been submitted that petitioner has different branches in different States and as such, the appropriate Government is Central Government and not the State Government. This plea has been raised before the Appellate Authority.

Be that as it may, jurisdictional issue has been raised before this Court. It was incumbent upon the adjudicatory authority to decide the jurisdiction at the first instance, then he may continue with the proceeding.

In view of the above limited submission, the impugned order dated 28.11.2019 passed in P. G. Case No. 03 of 2018 by Dy. Labour Commissioner, is hereby, quashed.

The matter is remitted back to the Controlling Authority to pass a fresh order after giving due opportunity to the claimant/employee.

With the above observations and directions, the present writ petition is, hereby, disposed of.

(Dr. S.N. Pathak, J.)