

BCH ELECTRICAL LIMITED V/S PRADEEP MEHRA

Supreme court of India

29/04/2020

Bench: Uday Umesh lalit, Sanjeev Khanna

Where Reported: M.Cr.C. No.21746/2015

Legislation Cited:

1. Sect 4(3) in The Payment of Gratuity Act,1972
2. Sect 4(5) in The Payment of Gratuity Act,1972
3. The Payment of Gratuity Act, 1972
4. Sect 2(e) in the Payment of Gratuity Act, 1972
5. Sect 4(2) in the Payment of Gratuity Act, 1972

Case Digest:

Summary: The respondent was the CEO of BCH Electrical LTD from 12.06.2000 to 01.06.2012(12 years). The petitioner sent a letter dated 09.08.2012 to him enclosing a cheque of Rs.10,19,452/-, out of which Rs.10,00,000/- was the amount of gratuity payable and the remaining was the interest. The respondent claimed to be entitled to Rs.1,83,75,000/- as gratuity and wrote three letters dated 31.08.2012, 24.09.2012 and 19.10.2012 claiming a sum of Rs.1,83,75,000/- as gratuity, but got no avail.

The respondent filed a claim application before the Controlling Authority under Sec 7 of the PG Act, praying for a direction to the petitioner to pay him a further sum of Rs.1,73,75,000. On 07.11.2014, the parties categorically submitted that the pleadings and documents already on record were sufficient for the disposal of the application, as only a question of law needed to be decided. The Controlling Authority directed the parties to file their respective affidavits of admission/denial.

The respondent filed his affidavit of admission/denial on 05.12.2014 and the petitioner filed its reply thereto on 09.01.2015. On 31.07.2017, the Controlling Authority, passed the impugned order allowing the respondent's claim for gratuity and directed the petitioner to pay him Rs.1,73,75,000/- over and above the gratuity amount already paid to him, along with simple interest at the rate of 10% per annum for delayed payment. The petitioner preferred an appeal before the Appellate Authority which was dismissed.

Issue:

- Can the respondent claimed gratuity in excess of the ceiling limit as under section 4(3) of the payment of Gratuity Act,1972
- Does the Controlling Authority have jurisdiction to decide claims in excess of the ceiling limit under sec 4(3)

Judgment:

The respondent is entitled to a maximum of Rs.10,00,000/- as gratuity, unless there is an award, or contract/agreement excess of ceiling limit. It cannot be construed to contemplate only the ceiling limit under Section 4(3) of the PG Act, but also includes the provisions of Section 4(5). The respondent's gratuity shall be calculated as per the rates prescribed under the PG Act without statutory limit.

A claim for gratuity in excess of the ceiling limit prescribed under Section 4(3) is not beyond the scope of the PG Act. The Controlling Authority did not have the jurisdiction to pass the impugned order dated 31.07.2015, and had to be rejected. The PG Act is a complete code in itself with respect to matters relating to the payment of gratuity and the Controlling Authority appointed under Sect 3 is statutorily enjoined under Sec 7(4)(b) to adjudicate any dispute with the amount of gratuity payable or to the admissibility of any claim to gratuity. When the PG Act itself protects the right an employee to get higher gratuity vis-à-vis the prescribed ceiling limit and does not curb the maximum amount of gratuity payable to an employee, it is unfathomable how the jurisdiction of the Controlling Authority can be curtailed to decide only those claims that have a pecuniary value less the said ceiling limit. It cannot be said that the jurisdiction of the Controlling Authority to examine a dispute under Sections 7(4)(b) is curtailed to the same pecuniary limit on the basis of ceiling amount of gratuity payable under sec 4(3). Such a power has been categorically granted only to the appropriate Government, which alone is competent to grant exemption to an establishment from the applicability of the PG Act.

The respondent must either avail the benefit of his contract with the appellant in its entirety or the statute. He cannot avail the better terms of his contract with appellant and at the same time keep his options open in respect of a part of the statute that suits him. The Court shall not interfere with the impugn orders in exercise of its writ jurisdiction under Articles 226 and 227 of the COI. The petitioner has already deposited the amount payable to the respondent along with interest. The Registry is directed to release the deposited amounts along with the accrued interest to the respondents.

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