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**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**BEFORE  
HON'BLE SHRI JUSTICE VIVEK AGARWAL**

**ON THE 26<sup>th</sup> OF FEBRUARY, 2024**

**WRIT PETITION No. 3507 of 2024**

**BETWEEN:-**

**CONTROLLER GOVERNMENT PRINTING PRESS AND  
STATIONARY THROUGH ITS CONTROLLER MAIDA  
MILL ROAD, BHOPAL, DISTRICT BHOPAL (MADHYA  
PRADESH)**

**.....PETITIONER**

**(BY SHRI VIVEK SHARMA - DY. ADVOCATE GENERAL )**

**AND**

- 1. NAFEESA BANO THROUGH HER LEGAL  
REPRESENTATIVE RUBEENA D/O LATE SHRI  
SAYEED KHAN R/O 654, LANE NO. 15, AARIF  
NAGAR, BAIRASIYA ROAD, DISTRICT BHOPAL  
(MADHYA PRADESH)**
- 2. CONTROLLING AUTHORITY UNDER P.G. ACT  
CUM ASSISTANT LABOUR COMMISSIONER  
BHOPAL DIVISION BHOPAL (MADHYA PRADESH)**

**.....RESPONDENTS**

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*This petition coming on for admission this day, the court passed the  
following:*

**ORDER**

This petition is filed being aggrieved of the order dated 01.09.2022 (Annexure P-3) passed by the Controlling Authority under P.G Act -cum- Assistant Labour Commissioner, Bhopal in Gratuity Case No. 64 of 2019, whereby learned Assistant Labour Commissioner has directed the State Authorities to pay gratuity of the deceased employee alongwith interest thereon

within a period of 30 days.

2. This order is dated 06.09.2022. Petition is filed in the year, 2024 after a delay of more than 1½ years, challenging this order, taking shelter of the orders of the Supreme Court passed in ***Civil Appeal No(S). 9722 of 2013 (Controller, Government Printing and Stationary Press Vs. Rashida Bee)*** & other connected matters decided on 29.10.2013. It is submitted that in terms of the said order of the Supreme Court as contained in Annexure P-1, workman is not entitled to payment of gratuity.

3. After, hearing Shri Vivek Sharma, learned Dy.Advocate General for the State and perusing the order of the Supreme Court, it is evident that, in that case background is totally different. Earlier workman who were all victims of Bhopal Gas Tragedy which took place in the intervening night of 02/03.12.1984 were given training and then absorbed in the Industries Department, thereafter, they were given work under the M.P. Government Printing and Stationary Department, which is admittedly an Industry.

4. In the earlier round, an Original Application was filed by the workman before the M.P. State Administrative Tribunal, at Jabalpur which was registered as ***O.A. No. 3493 of 1993*** which was dismissed by the Tribunal holding that it had no jurisdiction to entertain the same as the respondents were not employees/Civil servants under the State Government.

5. Thereafter, that order was assailed before the High Court in ***W.P. No. 4329 of 1997*** which was dismissed vide order dated ***08.10.1999*** passed by the High Court. Then workman had preferred an Application No. 442/MPIR/2000 before the Labour Court, Bhopal, claiming benefit of regularization of their service and payment of differential amount upon regularization as Junior Binders.

6. In this back drop and in the light of the aforesaid prayer, vide order dated 18.12.2002 learned Labour Court had directed the State Instrumentality to classify the respondents as Junior Binders on regular basis w.e.f. 29.07.1998 and to grant them the pay-scale as also the difference of salary admissible to the post of a Junior Binder.

7. This order was challenged before the High Court by the State Government in which High Court had gone a step ahead and directed for regularization of daily wagers against 150 post which were vacant in the cadre of Junior Binder.

8. Being aggrieved of the order of the High Court, State Government had approached the Supreme Court where learned counsel appearing for the State had argued that High Court was in error in holding that 150 posts in the cadre of Junior Binders were vacant and available against which the respondents could be regularized by the appellant.

9. In the aforesaid backdrop and taking note of the fact that there were in all 129 post in the cadre of Jr. Binders, out of which total 29 posts were vacant and 16 of which were to be filled up through direct recruitment in terms of the relevant recruitment Rules and remaining 13 vacant posts were to be filled up by promotion from those serving in the lower cadres, the Supreme Court had set-aside the orders of the High Court and had modified the orders of the Labour Court, directing the State to pay a sum of Rs.2,00,000/- each in full and final settlement of their claims arising out of their long service and their entitlement to parity of emoluments with those working in the similar position in the establishment was negatived. However, the Supreme Court was just and fair to observe that order being passed in peculiar facts and circumstances of the

case shall not be construed as a precedent for other cases.

**10.** In the aforesaid backdrop when the submission made by Shri Vivek Sharma, learned Dy. Advocate General is examined, then it is evident that, that case had nothing to do with payment of gratuity or the provision contained in the Payment of Gratuity Act, 1972.

**11.** Therefore, the State is under the grave mistake that the said order of the Supreme Court will be treated to be a precedent in the matter of payment of gratuity in regard to which learned Labour Commissioner i.e. Controlling Authority under Payment of Gratuity Act, has passed impugned order Annexure P-3 on 01.09.2022.

**12.** When definition of employee as given in Section 2(e) of the Payment of Gratuity Act, 1972 and that of Employer given in Section 2(f) of the said Act, 1972 is examined and so also the concept of continuous service as mentioned in Section 2(a) then there is no doubt in my mind that payment of gratuity in terms of the exigency mentioned in Section 4 of the Payment of Gratuity Act, 1972 is an Act which is mandatory on the part of the employer, therefore, that amount being not determined and paid by the employer as has been determined by the Controlling Authority and directed to be paid cannot be interfered.

**13.** Thus, State has taken an incorrect ground in assailing the said order of the Controlling Authority under the Payment of Gratuity Act, 1972. Thus, besides there being a delay, in appropriate reliance on the judgment of Supreme Court which has no application with the facts of the present case, leads the case of the State, vulnerable.

Petition is liable to be dismissed and is hereby dismissed.

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