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KARNATAKA HC ON INTEREST FOR DELAYED GRATUITY PAYMENT

A. Introduction

Karnataka High Court (“**HC**”) in the *A.M. Rajashekaraiah*¹ case held that an employer is liable to pay interest on gratuity if the gratuity amount is not disbursed within 30 days from the date of superannuation.

B. Facts

1. A.M. Rajashekaraiah was appointed as a physical education teacher in Kalpatharu Institute of Technology (“**KIT**”) in 1986. Post 32 years of service, he resigned from KIT as a physical education director in 2018.
2. Rajashekaraiah was not paid his gratuity amount post 30 days of superannuation. He made a representation and further served a legal notice on KIT.
3. Upon not receiving his payment, Rajashekaraiah filed an application before the Controlling Authority (“**CA**”) seeking payment of gratuity with interest. The CA allowed his application and directed payment of gratuity with 10% interest.
4. KIT deposited the amount with the CA and appealed the decision before the Appellate Authority (“**AA**”). The AA allowed the appeal and remanded the matter to the CA for fresh adjudication.
5. Aggrieved by the AA’s decision, Rajashekaraiah filed a writ petition before the HC.

C. KIT’s Contentions before HC

1. Proper and necessary parties were not arrayed in the proceedings before the CA.
2. The KIT principal, who does not undertake any financial decisions or is not the appointing authority, has been made a party to the case as against the college committee (“**Management**”).
3. A remand order directing the CA to adjudicate the matter in accordance with the law is not liable to be entertained by the HC.

¹ *A.M.Rajashekaraiah s/o Late A.M. Malappa v. The Secretary, Department of Labour, Bangalore & Ors.* (04.01.2023 – Kar HC): WP No. 2925/2022 (L-PG).

D. Reasoning & Judgment

Kar HC:

1. CA has rightly calculated the gratuity amount by applying the formula provided under the Payment of Gratuity Act, 1972 (“Act”).²
2. Observed that KIT has neither disputed the payment of gratuity nor the amount calculated for it. Further, KIT’s contention of not involving the Management is a technical issue and it is presumed that the Management is aware of the proceedings.
3. Invoked extraordinary discretionary jurisdiction under Article 226³ of the Constitution of India to provide relief to Rajshekaraiah in respect of his retirement benefits.
4. Relied on Section 7(3) and 7(3A) of the Act which specify that gratuity must be paid within 30 days of superannuation. Upon failure to make the payment, the employer is liable to pay interest. This position is reiterated by the Supreme Court in the *H. Gangabanume Gowda*⁴ case.
5. Allowed the petition and directed the CA to release the deposited amount to Rajshekaraiah.

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² Section 2(s) of the Act – definition of “wages”.

³ Power of High Courts to issue certain writs – “(1) Notwithstanding anything in article 32 every High Court shall have powers, throughout the territories in relation to which it exercise jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose”.

⁴ *H. Gangabanume Gowda v. Karnataka Agro Industries Corpn. Ltd.* (05.02.2003 - SC): MANU/SC/0086/2003.