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WRIT NOT MAINTAINABLE WHEN ALTERNATIVE REMEDY IS AVAILABLE

The Allahabad High Court (“**HC**”), in *Mahendra Singh Kanwal* case,¹ held that the Controlling Authority (“**Authority**”) under the Payment of Gratuity Act (“**Act**”), 1972, is responsible for resolving gratuity-related disputes requiring factual inquiries and directed the four employees to pursue remedies before Authority.

Brief Facts.

The common issue in Kanwal and three other employees (“**Employees**”) revolves around the calculation their of gratuity. They were initially appointed as daily wagers and were later regularized. For clarity, HC used the facts of the writ petition of Kanwal. In 1984, he was appointed as daily wager with the U.P. State Agro Industrial Corporation Ltd. Lucknow (“**Corporation**”) and subsequently regularized in February 2014. Kanwal retired in September 2019. The Corporation paid gratuity, only considering his regular service period (2014-19) and excluding the period of service as daily wager (1984-2014).

Employee’s Contentions.

They argued that the entire period of service, including the time served as daily wagers, should be considered for gratuity calculation.

They relied on Supreme Court (“**SC**”) judgment in *Netram Sabu* case² where the apex court held that the entire period of service falls under 'continuous service' as defined in Section 2A³ of the Act.

Corporation’s Contentions.

It argued that the Employees should have approached the Authority under Section 7(4)(b)⁴ of the Act, as there is a dispute regarding the amount of gratuity payable.

Judgment & Reasoning.

The HC:

¹*Mahendra Singh Kanwal vs State of U.P. Thru. Prin. Secy. Agriculture Lko. U.P. and Others* (2024) SCC Online ALL 7692.

²*Netram Sabu vs State of Chhattisgarh & Anr* (2018) 3 SCR 682.

³ Section 2A: Continuous Service.

⁴ Section 7 4(b): “Where there is a dispute with regard to any matter or matters specified in clause (a), the employer or employee or any other person raising the dispute may make an application to the controlling authority for deciding the dispute.”

- Relied on the *Assistant Commissioner of State Tax and others*⁵, *PHR Invent Educational Society*⁶ and several other case laws, reiterated that there are specific exceptions when a writ petition can be entertained despite the existence of an alternative remedy.
 - a. When the statutory authority has not acted according to the provisions of the relevant enactment.
 - b. When it has acted against the fundamental principles of judicial procedure.
 - c. When it has invoked repealed provisions.
 - d. When an order has been passed in complete violation of the principles of natural justice.
However, these exceptions do not apply to the present matter.
- Disposed of the writ petitions, directing the Employees to pursue remedy available under the Act.
- Directed, noting that the Employees are retired, the relevant authority to consider and decide any application filed under the Act within three months, in accordance with provisions of the Act.

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⁵ *The Assistant Commissioner of State Tax & Ors vs M/S Commercial Steel Limited* (2022) 16 SCC 447

⁶ *PHR Invent Educational Society v. UCO Bank*, (2024) 6 SCC 579