

(2013) 03 KL CK 0140

High Court Of Kerala

Case No: Writ Petition (C) . No. 19875 of 2012 (H)

The Alleppey District
Co-Operative Bank Ltd.

APPELLANT

Vs

The Regional Joint Labour
Commissioner, The District
Labour Officer and Sujith Sree
Nilayam

RESPONDENT

Date of Decision: March 13, 2013

Acts Referred:

- Constitution of India, 1950 - Article 226
- Payment of Gratuity Act, 1972 - Section 2(e), 4

Hon'ble Judges: V. Chitambaresh, J

Bench: Single Bench

Advocate: K.N. Rajani, SC, Alappuzha Dist. Co. Op, for the Appellant; C.A. Chacko Advocate
By R3 and R by Government Pleader Sri. Rafeek. V.K., for the Respondent

Judgement

V. Chitambaresh, J.

Both the controlling authority as well as the appellate authority have concurrently found that there exists an employer-employee relationship between the petitioner and the third respondent and that the third respondent has qualifying service to claim gratuity. The existence of employer-employee relationship is rested on office memo issued in the letter head of the petitioner-Bank and signed by its General Manager to the effect that salary and service conditions of the third respondent would be governed by the rules and regulations and the directions issued by the Registrar of Co-operative Societies and National Co-operative Development Corporation. The finding that the third respondent has qualifying service of 5 years to claim gratuity is rested on the certificate issued in the letter head of Integrated Co-operative Development Project signed by its General Manager certifying that the third respondent has been working on contract basis as Development Officer for a

period of five years. The definition of "employee" as defined u/s 2(e) of the Payment of Gratuity Act, 1972 is very wide and takes in the Development Officer which post was being held by the third respondent in addition to the charge of Manager (Accounts) from a later date. The finding that the third respondent is an employee and has qualifying service entitling to Gratuity u/s 4 of the Payment of Gratuity Act, 1972 is based on evidence and the finding on that score cannot be faulted with. Ext. P1 order of the controlling authority and Ext. P2 order of the appellate authority calls for no interference in exercise of the jurisdiction under Article 226 of the Constitution of India.

2. I however permit the petitioner to pay the amount due as gratuity found in Exts. P1 and P2 orders in two monthly installments (on 1.4.2013 and 1.5.2013).

The Writ Petition is disposed of.