



2026:AHC-LKO:21024

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 2441 of 2026

U.P. Forest Corporation Thru. Managing Director And 2
Others

.....Petitioner(s)

Versus

Appellate Auth. Payment Of Gratuity Act/Upper Labour
Comm. Lko. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Krishana Kumar Singh
Counsel for Respondent(s)	:	C.S.C.

Court No. - 8

HON'BLE JASPREET SINGH, J.

1. Heard Shri Krishana Kumar Singh, the learned counsel for the petitioners and Shri Arvind Pratap Singh learned counsel who has filed his vakalatnama on behalf of respondent no.3 which is taken on record.

2. By means of the instant petition, the petitioners have challenged the validity of an order dated 27.01.2025. passed by the Controlling Authority, Payment of Gratuity Act 1972 cum Assistant Labour Commissioner in P.G. Case No.418 of 2022 holding that the opposite party No.2 is entitled to receive gratuity by including his entire service, including the service rendered since his initial appointment on 27.03.1985 as daily wager, till his regularization on 13.04.2011. The petitioners have challenged the aforesaid orders by filing P.G. Appeal No.45 of 2025, which has been dismissed by the appellate controlling authority under the Payment of Gratuity Act 1972 cum Additional Labour Commissioner, Lucknow by means of an order dated 24.12.2025 and the validity of the appellate order has also been challenged in this petition.

3. The learned counsel for the petitioner has submitted that the question as to whether the service rendered by a daily wager before being regularized, could be reckoned for the purpose of Payment of Gratuity Act 1972 is pending consideration before the Hon'ble Supreme Court in **SLP Civil Diary No.2243 of 2023** titled *U.P. Forest Corporation and Ors. v. Appellate Authority* under the Payment of Gratuity Act 1972 and Ors.

4. In **Netram Sahu v. State of Chhattisgarh and Ors.**; (2018) 5 SCC 430, the Hon'ble Supreme Court has held that once the State regularized the

service of the appellant while he was in State service, the appellant became entitled to count his total period of service for claiming gratuity subject to his proving continuous service of five years as specified under Section 2A of the Act. In these circumstances, it would be a travesty of justice if the applicant is denied his legitimate claim of gratuity despite his continuous service for a period of 25 years which, even according to the State, were regularized. The question as to from which date such services were regularized was of no significance for calculating the total length of service for claiming gratuity amount once the service is regularized by the State. The Hon'ble Supreme Court further held that it was indeed the State who took 22 years to regularize the service of the appellant and went on taking work from him on payment of a meagre salary for 22 long years uninterruptedly. Having regularized the services of the appellant, the State had no justifiable reason to deny the benefit of gratuity to the appellant which was his statutory right under the Act. It being a welfare legislation meant for the benefit of the employees, who serve an employer for a long time, it is the duty of the State to voluntarily pay the gratuity amount to the appellant rather than to force the employee to go to the Court to get his genuine claim.

5. Learned counsel for the petitioner has submitted that the judgment of **Netram Sahu** (supra) is in conflict with an unreported order dated 16.01.2025 passed by the Hon'ble Supreme Court in **Civil Appeal No.292 of 2009** titled Bharat Sanchar Nigam Ltd., Jammu v. Teja Singh and Ors. and the issue has been referred for consideration by a larger Bench by means of an order dated 21.01.2020 passed by the Hon'ble Supreme Court in the case of **Dhansai Sahu v. State of Chhattisgarh and Ors.** 2020 SCC OnLine SC 141 and the larger Bench is yet to deliver its judgment in reference made in the case of **Dhansai Sahu** (Supra).

6. In **Rajnish Kumar Rai v. Union Of India**; SLP (Civil) No.20054 of 2023 the Hon'ble Supreme Court has held that merely because a matter has been referred to a larger Bench, the judicial propriety does not permit the judgment being ignored even by a Co-ordinate Bench of the Hon'ble Supreme Court.

7. In **State (UT of Ladakh) v. J&K National Conference**, (2024) 18 SCC 643, the Hon'ble Supreme Court has directed that :-

"35. We are seeing before us judgments and orders by High Courts not deciding cases on the ground that the leading judgment of this Court on this subject is either referred to a larger Bench or a review petition relating thereto is pending. We have also come across examples of High Courts refusing deference to judgments of this Court on the score that a later coordinate Bench has doubted its correctness. In this regard, we lay down the position in law. We make it absolutely clear that the High Courts will proceed to decide matters on the basis of the law as it stands. It is not open, unless specifically directed by this Court, to await an outcome of a reference or a review petition, as the case may be. It is also not open to a High Court to refuse to follow a judgment by stating that it has been doubted by a later coordinate Bench. In any case, when faced with conflicting judgments by Benches of equal strength of this Court, it is the earlier one which is to be followed by the High Courts, as held by a 5-Judge Bench in National Insurance Co. Ltd. v. Pranay Sethi [National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680 : (2018) 3 SCC (Civ) 248 : (2018) 2 SCC (Cri) 205. See SCC paras 27 and 28 in the report on this point.] . The High Courts, of course, will do so with careful regard to the facts and circumstances of the case before it."

8. In view of the aforesaid direction of the Hon'ble Supreme Court, this Court has to decide the Writ Petition following the law laid down in **Netram Sahu** (Supra) and it cannot defer decision of the Writ Petition till decision of the larger Bench in **Dhansai Sahu** (Supra).

9. Writ C No.7642 of 2024 and Writ C No.2452 of 2026 filed by the petitioners raising the same question, has been dismissed by means of the judgment and order dated 05.09.2024 and 19.03.2026 passed by a Co-ordinate Bench of this Court.

10. Keeping in view the aforesaid facts, there is no error or illegality in the impugned orders dated 27.01.2025 and 24.12.2025 passed by the Controlling Authority, Payment of Gratuity Act 1972 cum Assistant Labour Commissioner in P.G. Case No.418 of 2022 and in P.G Appeal No.45 of 2025 respectively directing payment of gratuity to the opposite party by taking into consideration his entire service, since inception.

11. The writ petition sans merit and is accordingly **dismissed**.

March 24, 2026
Harshita

(Jaspreet Singh,J.)