

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI

WRIT PETITION No.31621 of 2011

1ST APRIL, 2026

Between:

The Warden & Correspondent
St. George's Grammar School and another ... Petitioners

AND

State of Andhra Pradesh,
Rep. by its Prl. Secretary,
Labour Employment & Training Department
and 2 others ... Respondents

ORDER :

This writ petition is filed seeking the following relief:

“...to issue an appropriate writ more in the nature of writ of Certiorari calling for the records pursuant to the Order dated 03.09.2011 passed in P.G.No.11 of 2010 by the Learned Controlling Authority under the payment of Gratuity Act, 1972 and Assistant Commissioner of Labour-III, Hyderabad and quash the same and issue such other writ or order or direction...”

2. Heard Sri Ch.Samson Babu, learned counsel for the petitioners and Smt.V.Uma Devi, learned counsel for the respondents.

3. Facts of the case:

3.1. The 3rd respondent, who was working as a teacher in the petitioner institution, retired on 30.09.2009, upon attaining the age of superannuation. Thereafter, he approached the 2nd respondent seeking payment of a sum of Rs.2,93,685/- towards gratuity, purportedly under the Andhra Pradesh Education Act, placing reliance on the order dated 01.08.2007 passed by the Constitution Bench of the erstwhile High Court of Andhra Pradesh in W.P. No. 12492 of 2004. The said judgment categorically held that under the Payment of Gratuity Act, the Labour Courts do not have jurisdiction to entertain claims of teachers working in unaided educational institutions and that such claims are required to be agitated before the competent educational authorities.

3.2 In response, the petitioner institution filed its counter in P.G.No.11 of 2010 on 24.02.2011, specifically contending that any claim for gratuity under the Andhra Pradesh Education Act, must be preferred before the competent authority prescribed thereunder and not before the Labour Court functioning under the Payment of Gratuity Act. The petitioner further placed reliance on the judgment passed by the Hon'ble Supreme Court in ***Ahmedabad Private***

Primary Teachers' Association vs. Administrative Officer¹, reiterating that the teachers are excluded from the ambit of "employee" under Section 2(e) of the Payment of Gratuity Act, even after its amendment.

3.3 However, the Labour Court, without affording an opportunity of hearing to the petitioner passed orders on 06.11.2010, in favour of the 3rd respondent. Aggrieved thereby, the petitioner approached the 2nd respondent seeking reopening of P.G.No.11 of 2010. Upon such reopening, the petitioner filed an additional counter and written submissions and arguments were duly advanced.

3.4 Despite the same, the 2nd respondent, without properly appreciating the legal position and the binding precedents, passed the impugned order, affirming the earlier order, dated 06.11.2010, directing the petitioner to deposit a sum of Rs.2,93,685/- to the credit of the 3rd respondent with the Controlling Authority under the Payment of Gratuity Act-cum-Assistant Commissioner of Labour.

4.1 Learned counsel for the petitioners submits that the 2nd respondent failed to consider the petitioner's specific contention regarding the competent authority designated under Section 3 of G.O.Ms.No.1, dated 01.01.1994 and erroneously assumed

¹ AIR 2004 SC 1426

jurisdiction which it does not possess. The impugned order, therefore, suffers from lack of jurisdiction, non-consideration of binding precedent and misapplication of law. It is further submitted that the 2nd respondent committed a grave error in entertaining the application filed by the 3rd respondent, who claimed to be a “workman” within the meaning of the Payment of Gratuity Act, 1972. The reliance placed by the 3rd respondent on the judgment in W.P. No. 12492 of 2004 is wholly misplaced, as the said judgment merely directed payment of gratuity under the Andhra Pradesh Education Act and did not extend the applicability of the Payment of Gratuity Act to teachers.

4.2 The 2nd respondent failed to consider the binding precedent laid down by the Hon’ble Supreme Court cited supra, wherein a Constitution Bench categorically held that a teacher does not fall within the definition of an “employee” under Section 2(e) of the Payment of Gratuity Act. Significantly, even after the amendment to the said provision, the position remains unaltered. However, this crucial aspect was not examined by the 2nd respondent. Therefore, the impugned order directing deposit of Rs.2,93,685/- is wholly unsustainable in law and is liable to be set aside. Hence, prayed to allow the writ petition.

5. Learned counsel for the respondents submits that the decision relied upon by the learned counsel for the petitioners is no longer applicable in view of the Payment of Gratuity (Amendment) Act, 2009 and placed reliance upon the judgment passed by the Hon'ble Supreme Court of India in ***Birla Institute of Technology vs. The State of Jharkhand & Ors in Civil Appeal No.2530 of 2012***², wherein at para Nos.20, 23, 25, 26, 27, 29 to 31, it was held as under -

20. The short question, which arises for consideration in this appeal, is whether the Courts below were justified in holding that respondent No.4 was entitled to claim gratuity amount from the appellant (employer) under the Act.

23. As mentioned above, the issue in question was subject matter of the decision rendered in the case of Ahmedabad Private Primary Teachers' Association v. Administrative Officer (supra). This Court had examined the question in the light of the definition of the word "employee" defined in Section 2(e) of the Act as it stood then. The definition reads as under:

"2. (e) 'employee' means any person (other than an apprentice) employed on wages, in any establishment, factory, mine, oilfield, plantation, port, railway company or shop, to do any skilled, semi-skilled, or unskilled, manual, supervisory, technical or clerical work, whether the terms of such employment are express or implied, and whether or not such person is employed in a managerial or administrative capacity, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity."

25. The decision rendered in Ahmedabad Private Primary Teachers' Association v. Administrative Officer (supra), therefore, led the Parliament to amend the definition of "employee" as defined in Section 2(e) of the Payment of Gratuity Act by amending Act No. 47 of 2009 on 31.12.2009 with retrospective effect from 03.04.1997.

² 2019 (4) SCC 513

26. *It is clear from the statement of Objects and Reasons of the Payment of Gratuity (Amendment) Bill, 2009 introduced in the Lok Sabha on 24.02.2009, which reads as under:*

“STATEMENT OF OBJECTS AND REASONS *The Payment of Gratuity Act, 1972 provides for payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies, shops or other establishment and for matters connected therewith or incidental thereto. Clause (c) of subsection (3) of section 1 of the said Act empowers the Central Government to apply the provisions of the said Act by notification in the Official Gazette to such other establishments or class of establishments in which ten or more employees are employed, or were employed, on any day preceding twelve months.*

Accordingly, the Central Government had extended the provisions of the said Act to the educational institutions employing ten or more persons by notification of the Government of India in the Ministry of Labour and Employment vide number S.O. 1080, dated the 3rd April, 1997.

2. *The Hon'ble Supreme Court in its judgment in Civil Appeal No. 6369 of 2001, dated the 13th January, 2004, in Ahmedabad Private Primary Teachers' Association v. Administrative Officer [AIR 2004 Supreme Court 1426] had held that if it was extended to cover in the definition of 'employee', all kind of employees, it could have as well used such wide language as is contained in clause (f) of section 2 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 which defines 'employee' to mean any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of an establishment. It had been held that nonuse of such wide language in the definition of 'employee' under clause (e) of section 2 of the Payment of Gratuity Act, 1972 reinforces the conclusion that teachers are clearly not covered in the said definition.*

3. *Keeping in view the observations of the Hon'ble Supreme Court, it is proposed to widen the definition of 'employee' under the said Act in order to extend the benefit of gratuity to the teachers. Accordingly, the Payment of Gratuity (Amendment) Bill, 2007 was introduced in Lok Sabha on the 26th November, 2007 and same was referred to the Standing Committee on Labour which made certain recommendations. After examining those recommendations, it was decided to give effect to the amendment retrospectively with effect from the 3rd April, 1997, the date on which the provisions of the said Act were made applicable to educational institutions.*

4. *Accordingly, the Payment of Gratuity (Amendment) Bill, 2007 was withdrawn and a new Bill, namely, this Payment of Gratuity (Amendment) Bill, 2009 having retrospective effect was introduced*

in the Lok Sabha on 24th February, 2009. However, due to dissolution of the Fourteenth Lok Sabha, the said Bill lapsed. In view of the above, it is considered necessary to bring the present Bill.

27. The definition of "employee" as defined under Section 2(e) was accordingly amended with effect from 03.04.1997 retrospectively vide Payment of the Gratuity (Amendment) Act, 2009 (No. 47 of 2009) published on 31.12.2009.

29. In other words, the teachers were brought within the purview of "employee" as defined in Section 2(e) of the Payment of Gratuity Act by amending Act No. 47 of 2009 with retrospective effect from 03.04.1997.

30. The effect of the amendment made in the Payment of Gratuity vide No. 47 of 2009 on 31.12.2009 was twofold. First, the law laid down by this Court in the case of Ahmadabad Pvt.

Primary Teachers Association (supra) was no longer applicable against the teachers, as if not rendered, and Second, the teachers were held entitled to claim the amount of gratuity under the Payment of Gratuity Act from their employer with effect from 03.04.1997.

31. In our considered opinion, in the light of the amendment made in the Payment of Gratuity Act as detailed above, reliance placed by the learned counsel appearing for the appellant (employer) on the decision of Ahmedabad Private Primary Teachers' Association v. Administrative Officer (supra) is wholly misplaced and does not help the appellant in any manner. It has lost its binding effect.

Hence, prayed to dismiss the writ petition.

6. A perusal of the record reveals that this Court has dismissed the present writ petition on 07.03.2012, holding that there are no merits in the writ petition and directed the petitioners herein to pay gratuity to the 3rd respondent, as expeditiously as possible, preferably within a period of two months, from the date of receipt of a copy of the order. However, the petitioners filed Writ Appeal No.481 of 2012 before the Hon'ble Division Bench of this Court. The

Hon'ble Division Bench, *vide* order, dated 03.07.2012 remitted the writ petition, for fresh consideration, to examine whether respondent No.3 herein, falls within the definition of a "workman" under the Act. It is pertinent to mention the definition of a "workman" in this context, which is as follows:

Under Section 2(e) of the Payment of Gratuity Act, 1972, an employee (workman) is defined as any person, other than an apprentice, employed for wages to do skilled, semi-skilled, unskilled, manual, supervisory, technical, or clerical work. This applies across factories, mines, ports, and shops, regardless of whether they work in managerial or administrative capacities.

7. This Court, upon perusing the decision relied upon by the Hon'ble Supreme Court in ***Birla Institute of Technology's case (2 supra)***, is of the opinion that the decision in ***Ahmedabad Pvt. Primary Teachers' Association's case (1 supra)*** is no longer applicable, in view of the Payment of Gratuity (Amendment) Act, 2009, whereby, Section 2(e) was retrospectively modified with effect from 03.04.1997, to include teachers, within the definition of "employee." Accordingly, the earlier exclusion of teachers has been legislatively removed and the said judgment has lost its binding effect. Teachers are now entitled to gratuity under the Act and employers, including private schools, are legally obligated to pay such benefits. The constitutional validity and retrospective operation of the 2009 Amendment have been upheld, thereby affirming the earlier decision granting gratuity to the teacher.

8. In view of the above findings, this Court holds that there are no merits in the writ petition. Accordingly, the petitioners herein are directed to pay gratuity to the 3rd respondent, as expeditiously as possible, preferably, within a period of two (2) months, from the date of receipt of a copy of this order.

9. With the above directions, this Writ Petition is disposed of. There shall be no order as to costs.

As a sequel, miscellaneous applications pending, if any, in this Writ Petition, shall stand closed.

Date: 01.04.2026
BV

JUVVADI SRIDEVI, J