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Tax Flash News

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Apprenticeship period eligible for gratuity in the absence of appropriate documentation

Executive summary

In the case of *Steel Authority of India Limited*[1], the Calcutta High Court has held that in the absence of a formal apprenticeship agreement, any period during which an individual served as a trainee / probationer / full-time apprentice must be treated as part of the total length of service for the purpose of calculating gratuity entitlement.

Facts of the case

The Indian Iron and Steel Company (IISCO), a government-owned entity, had employed certain individuals (hereinafter referred to as *workmen*) as full-term apprentices (FTAs). Such workmen were required to undergo a mandatory training for a period of three years. IISCO later merged with Steel Authority of India Limited (SAIL) which introduced a Voluntary Retirement Scheme (VRS) for its employees.

[1] *Steel Authority Of India Limited* v. *Sri Shiba Pada Banerjee And Ors* (FMA 1190 of 2024)

Under the VRS, eligible employees, including workmen received a special lump sum payment along with their dues, including gratuity, as applicable.

However, one of the workmen later approached the Controlling Authority under the Payment of Gratuity Act, 1972. The issue involved was whether the period during which workmen worked as apprentices under IISCO should be counted as part of their total service period for gratuity calculation.

The Controlling Authority held that an apprentice must be considered as a trainee, and the period of training must be included in the length of service for the purpose of computation of gratuity amounts.

Before the Appellate Authority, SAIL produced certain documentary evidence (including copy of service record of individuals describing the FTA period). However, the Appellate Authority confirmed the order of the Controlling Authority.

Later, the Single Judge Bench of the High Court refused to interfere with the orders passed by Controlling Authority, as confirmed by Appellate Authority.

The matter was then appealed to the Division Bench of the Calcutta High Court.

SAIL's Contentions

As a Government Company, SAIL was bound to appoint apprentices under the Apprentices Act, 1961 (the Act), and submitted documents supporting the fact that the workmen were engaged as FTAs.

Apprentices are excluded from the definition of employee[2] and therefore not entitled to gratuity for their apprenticeship period.

High Court Ruling

Although apprentices are excluded from the definition of employee, the High Court examined whether the workmen were valid apprentices under the Act.

No formal written apprenticeship contracts were executed between workmen and the employer, as required under the Act[3], which explicitly requires a written contract of apprenticeship to define the terms and conditions of the apprentice's training.

In the absence of such contracts, the workmen could not be treated as apprentices under the Act. They were instead deemed to be trainees or probationers,

[2] Section 2(e) of the Payment of Gratuity Act, 1972

[3] Sections 4 and 5 of the Act.

and their apprenticeship period would be included in the total service period for gratuity purposes.

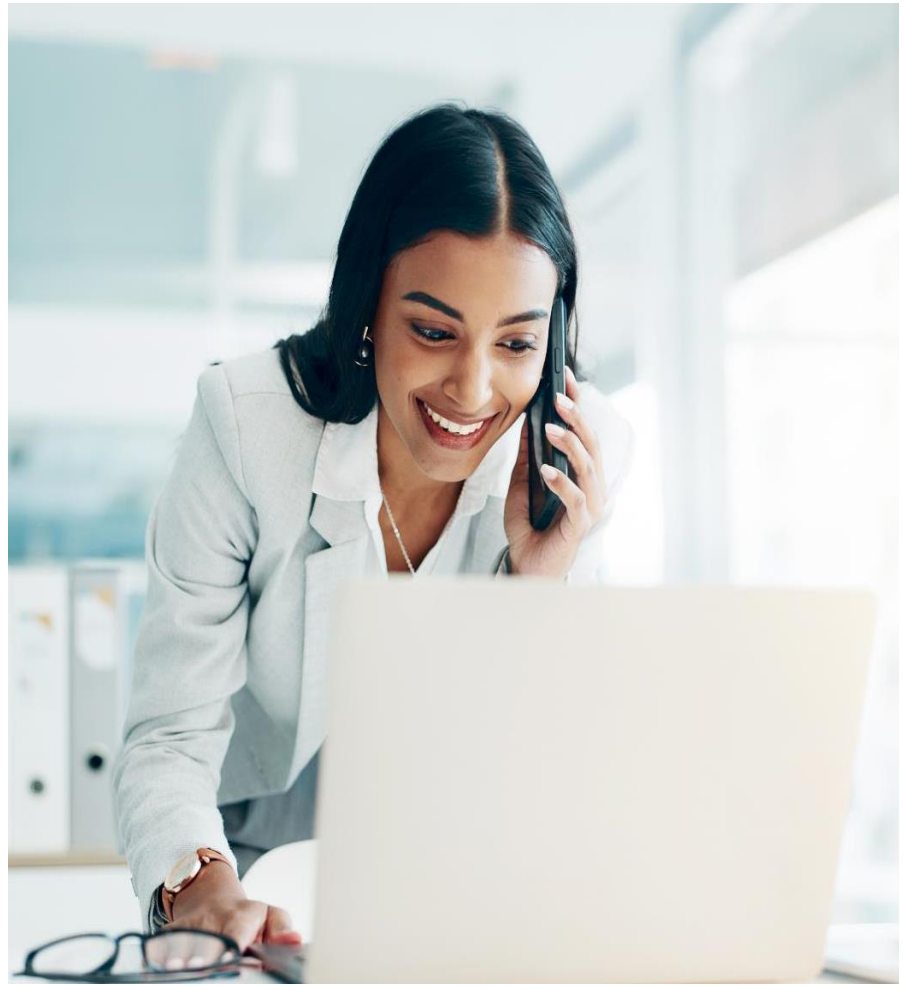
Dismissing the appeals filed by SAIL, the High Court confirmed that all employees who accepted the VRS scheme were entitled to gratuity for the full period of service, including the time spent as FTAs.

Our comments

This Ruling re-iterates the importance of documentation requirement.

It is imperative that employer maintains complete records and registration details of apprenticeship contracts.

In the absence of such documentation, courts may treat the apprenticeship period as regular service, requiring gratuity payments, if applicable, for that duration.



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