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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPL No. 52 of 2020**

M/s Mohammed Kasim A Partnership Firm Through Its Partner Sheikh Niyamatullah, S/o Mohammed Kasim, Aged About 54 Years, R/o House No. 173, Darri Road, Ward No. 1, Korba, Tahsil And District Korba, Chhattisgarh

... Petitioner**versus**

Shri Natthulal Rathour S/o Late Shri Punaoram Rathour R/o Near Kamla Neharu College, Rani Road, Ward No. 4, Korba, District Korba, Chhattisgarh.

... Respondent

For Petitioner	: Mr. Alok Kumar Dewangan, Advocate
For Respondent	: Mr. Rohitashva Singh, Advocate along with Ms. Prachi Diwan, Advocate

Hon'ble Shri Justice Rakesh Mohan Pandey**Order on Board****05/08/2025**

1. The petitioner has filed this petition seeking the following relief(s):-

"10.1 The Hon'ble Court may kindly be pleased to call for the entire records pertaining to this case from possession of the respondents for it's kind perusal;

10.2 The Hon'ble Court may kindly be pleased to issue a suitable writ, direction or order and quash/set aside the order dated 25.02.2020 (Annexure P/1) passed by the Appellate Authority under the Payment of Gratuity Act 1972- cum the Deputy Labour Commissioner, Office of the Labour



Commissioner Chhattisgarh, Indrawati Bhawan, New Raipur, Atal Nagar, District- Raipur (C.G.) and furthermore the appeal (Annexure P/5) preferred by the petitioner firm under section 7(7) of the Payment of Gratuity Act 1972 as well as the application (Annexure P/6) under section 5 of the Limitation Act 1963 may kindly be allowed or the matter may kindly be remanded to the Appellate Authority under the Payment of Gratuity Act 1972- cum the Deputy Labour Commissioner, Office of the Labour Commissioner Chhattisgarh, Indrawati Bhawan, New Raipur, Atal Nagar, District- Raipur (C.G.) for adjudication of the appeal (Annexure P/5) on merits; and

10.3 Any other relief, which this Hon'ble Court may deem fit and proper, may also be passed in favour of the petitioner firm."

2. Brief facts of the present case are that the respondent, a former employee of the petitioner firm (a partnership) moved an application before the Controlling Authority under the Payment of Gratuity Act, 1972 (for short, the Act, 1972), on 27.07.2017, claiming gratuity for the period of service rendered by him for 22 years and 8 months. It is alleged that the services of the respondent were terminated by the petitioner without reason and without making the payment of gratuity. The Controlling Authority passed an order on 04.07.2018 directing the employer to make the payment of gratuity. The petitioner/employer preferred an appeal under Section 7(7) of the Act, 1972, on 10.10.2019, along with an application under Section 5 of the Limitation Act seeking condonation of delay. The Appellate Authority, vide order dated



25.02.2020, rejected the application for condonation of delay, and, consequently, dismissed the appeal as barred by limitation.

3. Learned counsel for the petitioner submits that one of the partners of the firm had suffered a heart attack and was undergoing medical treatment, which prevented the firm from filing the appeal within the prescribed limitation period. It is submitted that the delay was properly explained and, therefore, ought to have been condoned. It is also submitted that the Appellate Authority ought to have considered the merits of the case and that the order dated 04.07.2018 is perverse and illegal.
4. On the other hand, learned counsel for the respondent would contend that Section 7(7) of the Act, 1972, specifically prescribes the limitation period for filing an appeal as 60 days from the date of receipt of the order, extendable by a further period of 60 days if sufficient cause is shown. He would further submit that beyond this total of 120 days, the Appellate Authority has no power to condone the delay.
5. It is submitted that in the present case, the appeal was filed on 10.10.2019, whereas the Controlling Authority passed the order on 04.07.2018, thus there was a delay of more than one year beyond even the maximum permissible period. Therefore, the application under Section 5 of the Limitation Act was not maintainable, and the Appellate Authority rightly rejected it.



6. Heard learned counsel for the parties and perused the documents placed in the file.

7. Section 7(7) of the Payment of Gratuity Act, 1972, clearly provides:-

"Any person aggrieved by an order under sub-section (4) may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf:

Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days.

[Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either produces a certificate of the controlling authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under sub-section (4), or deposits with the appellate authority such amount.] [Inserted by Act 25 of 1984, Section 4 (w.e.f. 1.7.1984).]"

8. The Hon'ble Supreme Court in ***Consolidated Engineering Enterprises v. Principal Secretary, Irrigation Department & Ors., (2008) SCC OnLine SC 618***, has held that where the statute prescribes a specific limitation period and a limited power to condone delay, the delay beyond such extended period cannot be condoned under Section 5 of the Limitation Act, unless the statute expressly makes it applicable.
9. In the present case, the Controlling Authority passed the order on 04.07.2018 in favour of the respondent, whereby the petitioner was



directed to pay the amount of gratuity to the respondent. Against the said order, an appeal was preferred on 10.10.2019 by the petitioner/employer, and thus there was a delay far exceeding the maximum limit of 120 days prescribed under Section 7(7) of the Act, 1972. Therefore, the Appellate Authority had no jurisdiction to condone the delay.

10. Once the statute bars the extension beyond a specified period, neither the Appellate Authority nor this Court in the writ jurisdiction can extend the period of limitation contrary to the statutory mandate.

11. In view of the above, I find no infirmity in the impugned order dated 25.02.2020 as the learned Appellate Authority has acted strictly in accordance with the law.

12. Accordingly, the writ petition is hereby **dismissed**. No order as to costs.

Sd/-

Rakesh Mohan Pandey
JUDGE

Nadim