

GAHC010008852026



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**THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

Case No. : WA/12/2026

SMT. PRISCILLA PATHAK
W/O SRI GEETARTHA PATHAK, R/O HENGRABARI HOUSNG COLONY, UNIT
5, MIGB3, DISPUR, GUWAHATI, ASSAM, PIN-781006

VERSUS

THE STATE OF ASSAM AND 2 ORS.
THE COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM IN THE
DEPARTMENT OF LABOUR AND EMPLOYMENT, DISPUR, GUWAHATI-
781006, ASSAM.

2:THE CONTROLLING AUTHORITY UNDER THE PAYMENT GRATUITY ACT
1972 AND ASSSTT. LABOUR COMMISSIONER
GHY
SHRAM BHAWAN
ULUBARI GUWAHATI
PIN-784007
DIST- KAMRUP (M)
ASSAM

3:THE MANAGEMENT OF HOLY CHILD SCHOOL
REPRESENTED BY ITS MANAGER
HAVING ITS OFFICE AT HOUSE NO. 15
KRISHNANAGAR ROAD
PIYOLI PHUKAN ROAD
WEST JYOTI NAGAR
KRISHNA NAGAR
CHANDMARI
PIN-781003
KAMRUP (M) ASSAM

For the appellant : Mr. N. Patiri, Advocate

– B E F O R E –

HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

28-01-2026

(Ashutosh Kumar, C.J.)

This is an appeal against the judgment dated 18.12.2025 passed by a learned Single Judge of this Court in WP(C) 5542/2025, whereby the order dated 04.03.2025 passed by the Controlling Authority under the Payment of Gratuity Act, 1972 has been interfered with and the appellant has been directed to be paid interest on the gratuity amount only from the date of her having filed necessary application before the Controlling Authority.

Be it noted that the Controlling Authority had directed for payment of 10 % interest on delayed payment of gratuity which accrued in favour of the appellant from 30 days after her retirement.

The appellant had retired after 36 years of service in the year 2019. The School Management paid her only Rs.1 lakh as gratuity which was willingly accepted by the appellant for her lack of knowledge about her

entitlements with respect to gratuity. It was only later in the year 2024 when she learnt that she was entitled to more amount as gratuity, she approached the Controlling Authority (Assistant Labour Commissioner, Guwahati) to claim full gratuity amount. Her request was acceded to and an order was passed in her favour that she would be entitled to a gratuity amount of approximately Rs.5 lakhs along with an interest of 10% for the delayed payment.

Notwithstanding the availability of an internal forum for challenging such order passed by the Controlling Authority, the School Management preferred a writ petition [WP(C) 5542/2025] wherein the learned Single Judge vide the order impugned, approved of the decision of the Controlling Authority to pay the gratuity amount to the appellant in terms of the Payment of Gratuity Act, 1972 (hereinafter to be referred as '1972 Act') but interest on such payment at the rate of 10% was made available to the appellant only from the date when she had approached the Controlling Authority for the needful and not from 30 days after her date of retirement in the year 2019.

The logic employed by the learned Single Judge is that on a plain reading of Section 7 of the 1972 Act, it gets revealed that it is incumbent upon the employee/appellant to intimate the Management to receive the gratuity amount. The Management, on the other hand, had also a corresponding duty to calculate the gratuity amount payable to the employee and simultaneously a permission has to be taken from the Controlling Authority.

The learned Single Judge opined that both the requirements under

Section 7 of the 1972 Act were not fulfilled and, therefore, the delay in payment of gratuity to the appellant was because of her own fault of only approaching the Controlling Authority in the year 2024.

Precisely for this reason, the interest on the delayed payment was limited only from the date when the afore-noted application by the appellant/employee was filed before the Controlling Authority.

The learned counsel for the appellant, however, has submitted that the purposive interpretation of Clause 2 of Section 7 of the 1972 Act would indicate that there is a duty on the part of the employer to calculate the gratuity amount in accordance with the 1972 Act, which in this case was not done. No sooner the appellant realised that she was being paid much less than her entitlement, she approached the Controlling Authority, whereafter necessary orders were passed.

It was under such circumstances that the Controlling Authority had directed for payment of interest on the delayed payment from 30 days after the date of retirement of the appellant.

In such circumstances, the learned counsel for the appellant has submitted that the order passed by the Controlling Authority with respect to interest should not be interfered with.

Let notice be issued to the respondents.

Notice to respondent Nos.1 and 2 is accepted by Ms. S. Sarma, learned Government Advocate, Assam, who shall put in her response by the next date, if so deemed necessary.

Let notice be issued to the respondent No.3 on steps being taken by

the appellant within a period of two weeks from today by both modes, i.e. by speed post as well as by usual process, returnable on **20.03.2026**.

JUDGE

CHIEF JUSTICE

Comparing Assistant