



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

WRIT PETITION NO. 32573 OF 2025 (L-PG)

BETWEEN:

ITI LTD.,
REGISTERED AND CORPORATE OFFICE,
ITI BHAWAN, DOORAVANINAGAR,
BENGALURU-560016
REPRESENTED BY ITS GENERAL MANAGER,
(HR), MR. SAJAN ABRAHAM,
REGISTERED UNDER COMPANIES ACT, 1956.

...PETITIONER

(BY SRI MANJUNATHA SHETTY N, ADVOCATE)

AND:

1. THE APPELLATE AUTHORITY,
THE PAYMENT OF GRATUITY ACT,
1972 AND THE DEPUTY CHIEF LABOUR
COMMISSIONER (CENTRAL) SHRAM SADAN,
3RD CROSS, 3RD MAIN,
2ND PHASE, TUMKUR ROAD,
YESHWANTPUR, BENGALURU-560022.

2. MS. MALATHY M SASTHA,
AGED MAJOR,
NO.34, CHAITHNYA COLONY,
CHANDRANAGAR POST, PALKKAD,
KERALA-678007.

...RESPONDENTS

(BY SRI T KRISHNADA RAI, ADVOCATE FOR R2,
SRI. RAJESH A, CGSC FOR R1)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO I.
CALL FOR THE ENTIRE RECORDS LEADING TO THE IMPUGNED





ORDER PASSED BY THE APPELLATE AUTHORITY UNDER THE PAYMENT OF GRATUITY ACT 1972 AND THE DEPUTY CHIEF LABOUR COMMISSIONER (CENTRAL), BENGALURU IN APPEAL NO. 36 (316) 2023/B1 DATED 14/7/2025 IE ANNEXURE -A TO WRIT PETITION AND ETC.

THIS PETITION, COMING ON FOR FURTHER HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

ORAL ORDER

Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

2. An application at I.A.No.1/2026 is filed by respondent No.2 - employee to vacate the stay.

3. With the consent of both sides, the case is heard on merits.

4. The gratuity payable to respondent No.2 was delayed on the ground that there was pending domestic enquiry against respondent No.2 and in the domestic enquiry, the charges are not proved and only after completion of the domestic enquiry, the gratuity is paid. However, there was a delay in making the payment.



5. Under these circumstances, respondent No.2-employee claimed interest on the delayed payment of gratuity. The Controlling Authority rejected the claim of contesting respondent No.2. However, on an appeal filed by contesting respondent No.2, the Appellate Authority has allowed the appeal and directed payment of interest on the delayed payment. This order is called in question by the employer.

6. Learned counsel for the petitioner would also urge that respondent No.2-employee was facing the domestic enquiry and she resigned on 14.08.2021. However, domestic enquiry was held pursuant to the charges levelled against her and in the said domestic enquiry, the Enquiry Officer has found that the charges are proved.

7. It is further submitted that since the charges were established, in terms of the order dated 03.09.2002, the act of respondent No.2- employee was condemned and ban was imposed on future employment.



8. Learned counsel for the petitioner would also urge that since respondent - employee was facing domestic enquiry, there was no obligation on the part of the employer to pay the gratuity amount and moreover, the gratuity amount payable to the respondent-employee was not yet determined and it was subject to the outcome of the domestic enquiry where the employer was also required to assess the loss caused to the employer by the act or omission on the part of the respondent-employee. Thus, the learned counsel would argue that there is no obligation on the part of the employer to pay the interest on the alleged delay.

9. It is his further submission that since domestic enquiry concluded on 03.09.2002, there was 30 days time to pay the amount and the last date would be 02.10.2002. The amount was paid on 08.12.2002. Hence, at the most, there is a delay of 2 months for which petitioner is ready to pay the interest.



10. Learned counsel appearing for the contesting respondent No.2-employee would submit that in view of the law laid down by Apex Court in the following cases, the employer is bound to pay interest on the delayed payment of gratuity even in a situation where the payment is delayed on account of domestic enquiry:

- (a) *Y.K. Singla vs. Punjab National Bank & Others*¹**
- (b) *Kerala State Cashew Development Corporation Ltd. & Another Vs. N Ashokan*²**
- (c) *H. Gangahanume Gowda vs Karnataka Agro Industries Corporation Limited*³.**

11. The Court has considered the contentions raised at the Bar and perused the records.

12. The payment of gratuity is governed under Section 7 of Payment of Gratuity Act, 1972 (for short 'Act of 1972'). Section 7(3A) of the Payment of Gratuity Act, 1972 reads as under:

¹ **(2013) 3 SCC 472**

² **(2009) 16 SCC 758**

³ **(2003) 3 SCC 40**



"Section: 7(3A) Determination of the amount of gratuity.

(1) XXX

(2) XXX

(3) XXX

"(3A) If the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long-term deposits, as that Government may, by notification specify:

Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the controlling authority for the delayed payment on this ground."

13. The *proviso* to the aforementioned Section 7(3A) of the Act of 1972 would mandate that in case gratuity is not paid as required under sub-section (3) of Section 7 of the Act of 1972, then the employer is liable to pay interest on the delayed period at such rate not exceeding the rates notified



by the Central Government. However, the *proviso* would also state that there is no obligation to pay the interest on the delayed payment in case the delay is due to the fault of the employee and if, employer obtained the permission in writing from the Controlling Authority for the delayed payment on the said ground.

14. Referring to the *proviso* to Section 7(3A) of the Act of 1972, learned counsel for the petitioner would urge that the delayed payment is on account of the fault of the respondent- employee who was facing domestic enquiry. Thus, there was no obligation to pay the gratuity amount, the moment the employee resigned. The obligation to pay the amount arose only after the conclusion of the domestic enquiry.

15. The contention does not appear to be correct for the simple reason that the *proviso* to Section 7(3A) of the Act of 1972 can be invoked to claim exemption from payment of interest if both circumstances referred to below are established:



- (a) The delay is on account of the fault on the part of the employee.
- (b) The employer has obtained the written permission from the Controlling Authority to delay the payment.

16. Though the first requirement, i.e., the fault on the part of the respondent - employee is established, the second requirement of obtaining the permission from the Controlling Authority is not obtained.

17. Though the learned counsel for the petitioner would urge that, such an interpretation would amount to rewarding the wrongdoer, the Court cannot accept the contention of the petitioner for the simple reason that the requirement under Section 7(3A) of the Act of 1972 appears to be mandatory from the language employed in the *proviso* to Section 7(3A) of the Act of 1972. In case, the employer intends to avoid payment of interest, then he had a remedy by invoking Section 7(3A) of the Act of 1972.



18. The petitioner is able to establish only one aspect of the matter, the second requirement i.e., the permission of the Controlling Authority is not obtained.

19. The contention of the learned counsel for the respondent- employee that the permission is mandatory also appears to be the law laid down by the Apex Court in ***Kerala State Cashew Development Corporation Ltd., Y.K. Singla and H.Gangahanume Gowda (supra).***

20. That being the position, this Court does not find any merit in the petition challenging the order of payment of interest.

21. Accordingly, the Writ Petition is ***dismissed***.

Sd/-
(ANANT RAMANATH HEGDE)
JUDGE