

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA**LPA No.02 of 2023****Decided on:06.01.2023**

Director of Ayurveda & Anr.

.....Appellants

Versus

Joint Labour Commissioner-cum-Appellate
Authority, Himachal Pradesh & Others

...Respondents

Coram:**Hon'ble Ms. Justice Sabina, Judge.****Hon'ble Mr. Justice Sushil Kukreja, Judge.**

Whether approved for reporting?

For the appellants : Mr. I.N. Mehta, Senior Additional
Advocate General.

For the respondents : None for respondents No.1 & 2.

Mr. Mehar Chand, Advocate, for
respondent No.3.

Sabina, Judge (Oral).

Appellants-State has filed the Letters Patent Appeal, challenging the order dated 23.05.2022, passed by the learned Single Judge, whereby, writ petition filed by the appellant was dismissed.

2. Mr. I.N. Mehta, learned Senior Additional Advocate General, has submitted that the claim of the respondent No.3

has been wrongly calculated by the Assessing Officer, hence, the appeal filed by the appellant was liable to be heard on merits by the appellate authority.

3. After hearing learned Senior Additional Advocate General, we are of the opinion that the instant Letters Patent Appeal deserves dismissal.

4. The competent authority, vide its order dated 09.09.2016, found that respondent No.3 was entitled for gratuity as per Section 4(2) of the Payment of Gratuity Act, 1972 (hereinafter referred to as "*the Act*" in short). The said order passed by the competent authority was challenged by the appellant by filing an appeal before the appellate authority on 09.05.2017. The Joint Labour Commissioner-cum-appellate authority, dismissed the appeal on 23.08.2017, on the ground that the same was time barred. Appellant then challenged the order dated 23.08.2017 by filing writ petition in this Court. Learned Single Judge, vide impugned order dated 23.05.2022, dismissed the writ petition filed by the appellant. Hence, the present Letters Patent Appeal has been preferred by the appellants.

5. We have carefully gone through the order passed by the learned Single Judge. It has been noticed by learned Single Judge that remedy of appeal has been provided under Section 7(7) of the Act and as per the said provision any person aggrieved by an order passed under Section 7(4) of the Act may within 60 days from the receipt of the order prefer an appeal to the appropriate government or the specified competent authority. In case the competent authority was satisfied that the appellant was prevented from sufficient cause from preferring an appeal within the statutory period of 60 days, the period for filing an appeal can be further extended by 60 days. However, in the present case, the appeal was filed after the expiry of the period of limitation. Appellant had not filed any application seeking condonation of delay at the time of filing of the appeal to make out a case that there was sufficient cause for not preferring the appeal within the statutory period of 60 days. Since the maximum period of 120 days in filing the appeal has expired, the learned Single Judge, basing reliance on the decisions of the Hon'ble Supreme Court in ***Suryachakra Power Corporation Limited versus Electricity Department, (2016) 16 SCC 152*** and in ***Chhattisgarh SEB vs. Central***

Electricity Regulatory Commission, (2010) 5 SCC 23, rightly came to the conclusion that the appeal filed by the appellant was liable to be dismissed being time barred.

6. Impugned order dated 23.05.2022, passed by the learned Single Judge, thus, does not warrant any interference.

7. Dismissed.

8. Pending miscellaneous application(s), if any, shall also stand disposed of.

**(Sabina)
Judge**

**January 04, 2023
(Yashwant)**

**(Sushil Kukreja)
Judge**