



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

(118)

CWP No. 24060 of 2026 (O&M)

Date of Decision: 13.08.2026

M/s S.B.M. Senior Secondary School and Others

.....Petitioners

Versus

Appellate Authority and Others

.....Respondents

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present: Mr. Rohit Mittal, Advocate
for the petitioners.

Mr. Kapil Bansal, DAG, Haryana.

KIRTI SINGH, J. (ORAL)

CM-14028-CWP-2026

The instant application has been filed for placing on record the register of wages as Annexure P-4.

For the reasons recorded in the application, the application is allowed. Annexure P-4 is taken on record.

CWP-24060-2026

1. The present petition has been filed under Articles 226/227 of the Constitution of India assailing the order dated 29.04.2026 (Annexure P-3) passed by respondent No.1-Appellate Authority under the Payment of Gratuity Act, 1972, Gurugram, whereby the statutory appeal preferred by the petitioners against the order dated 23.08.2024 (Annexure P-1) passed by respondent No.2-Controlling Authority, Rewari, has been dismissed being time barred. The petitioners have also questioned the correctness of the order



dated 23.08.2024 itself, whereby the claim of respondent No.3 for payment of gratuity has been allowed.

2. As per the pleaded case, respondent No.3-Dinesh kumar was working with petitioner No.1-School as TGT (Mathematics). His case before the Controlling Authority was that he had joined service on 01.04.1997 and worked upto 31.03.2019. His last drawn salary was Rs.23,090/- and entitled to gratuity of Rs.3,50,000/- and requested for directions to the petitioners to pay his gratuity with interest. Respondent No.3 raised a claim for payment of gratuity under the Payment of Gratuity Act, 1972 (hereinafter, "the Act"), by way of Claim Application No. PG/05/2021. The claim was contested by the petitioners. The petitioners, inter alia, disputed the entitlement of respondent No.3 to gratuity and raised objections with regard to the applicability and interpretation of the provisions of the Act. The Controlling Authority, however, vide order dated 23.08.2024, allowed the claim of respondent No.3. While doing so, reliance was placed upon the judgment of the Hon'ble Supreme Court in *Independent Schools' Federation of India (Regd.) v. Union of India, 2022 SCC OnLine SC 1113*. Respondent No.3 was held entitled to gratuity and the same was computed at Rs.2,82,873/-, on the basis of fifteen days' wages for every completed year of service and last drawn wages of Rs.22,287/-. Interest of Rs.99,005/- was also calculated at the rate of 10% per annum from 19.02.2021 till the date of the order, making the total amount payable Rs.3,81,878/-.

3. Admittedly, the petitioners did not immediately avail the statutory appellate remedy against the aforesaid order. Instead, according to their case, they preferred a review application dated 17.10.2024 before the



Controlling Authority itself, along with applications seeking stay of the operation of the order and condonation of delay. The explanation furnished by the petitioners is that the aforesaid proceedings were initiated bona fide under the belief that the Controlling Authority was competent to reconsider its order. It is further their case that no order was passed upon the review application or the connected applications, nor was any such order communicated to them.

4. The petitioners thereafter submitted an application under the Right to Information Act, 2005, dated 03.02.2026, seeking information regarding the status of the aforesaid proceedings. According to the petitioners, no effective or substantive information regarding the fate of the review proceedings or any orders thereupon was supplied. They thereafter preferred the statutory appeal before respondent No.1 by way of memorandum dated 20.03.2026.

5. At the time of filing the appeal, the petitioners also complied with the statutory requirement of pre-deposit by depositing an amount of Rs.2,82,873/- vide cheque dated 18.03.2026 drawn on Axis Bank. In the appeal, the petitioners specifically explained the circumstances which, according to them, had resulted in the delay and pleaded that they had been diligently pursuing the remedy before the Controlling Authority. The Appellate Authority, after hearing the authorized representatives of the petitioners and counsel for respondent No.3, vide order dated 29.04.2026, dismissed the appeal on the ground that it was time-barred and consequently upheld the order passed by the Controlling Authority. Aggrieved against the aforesaid orders, the petitioners have approached this Court.



6. Learned counsel for the petitioners, *inter alia*, contends that the order dated 29.04.2026 is wholly non-speaking and does not deal with the explanation furnished by the petitioners for the delay. It is submitted that the Appellate Authority was required to consider the circumstances in which the delay had occurred, particularly the fact that the petitioners had approached the Controlling Authority by way of review and had thereafter sought information regarding the fate of those proceedings under the Right to Information Act.

7. On a pointed query put to learned counsel as to the statutory provision under which the Controlling Authority was competent to review an order passed by it after contest on merits, learned counsel is unable to point out any such provision. It is, however, submitted that the review application had been filed bona fide and that the petitioners were awaiting its disposal.

8. It is further submitted that the length of delay by itself cannot be determinative and what is required to be examined is whether the delay was occasioned by circumstances constituting sufficient cause. Learned counsel has also relied upon *Siemens Engineering & Manufacturing Co. of India Ltd. v. Union of India, AIR 1976 SC 1785*, to contend that a quasi-judicial authority is required to pass a reasoned order dealing with the material submissions raised before it and that failure to do so vitiates the order dated 29.04.2026.

9. Learned counsel has further assailed the original order dated 23.08.2024 on merits. It is contended that the Controlling Authority mechanically determined the gratuity amount without properly examining the relevant evidence, and that the wage figure adopted by the Controlling



Authority was determined solely on the basis of the bank statement produced by the petitioners, without conducting the inquiry contemplated under Section 7(4)(c) of the Payment of Gratuity Act, 1972. It is submitted that a bank statement, by itself, cannot conclusively establish the wages for the purposes of computation of gratuity, particularly without examining the nature and components of the amounts credited therein and determining whether the same fall within the definition of “wages” under Section 2(s) of the Act.

10. I have heard learned counsel for the petitioner and perused the relevant material on record.

11. Having considered the Learned counsel at length, the following questions arise for consideration:

- (i) whether the statutory appeal filed by the petitioners was within the period prescribed under Section 7(7) of the Act and, if not, whether respondent No.1 had jurisdiction to condone the delay;
- (ii) whether the pendency of the review application before the Controlling Authority could have the effect of suspending or extending the period prescribed for filing the statutory appeal;
- (iii) whether the brevity of the order dated 29.04.2026, notwithstanding the statutory bar of limitation, warrants remand of the matter to the Appellate Authority; and
- (iv) whether any patent illegality, jurisdictional error or other infirmity is demonstrated in the original order dated 23.08.2024 so as to warrant interference in exercise of the writ jurisdiction of this Court.

**I. LIMITATION UNDER SECTION 7(7)**

12. It would be useful, at the outset, to set out the chronology of delay in some detail, since it is on this chronology that the entire controversy turns. The order of the Controlling Authority, allowing the claim of respondent No.3, is dated 23.08.2024. Instead of filing a statutory appeal, the petitioners moved a review application before the very same Controlling Authority on 17.10.2024, i.e. approximately fifty-five days later, together with applications for stay and condonation of delay. As per the petitioners, no order was passed on those applications, nor was any order communicated to the petitioners, for a period of well over a year. It was only on 03.02.2026, i.e. nearly sixteen months after the review application had been filed, that the petitioners moved an application under the Right to Information Act, 2005 to ascertain its fate; a reply followed on 19.02.2026, which did not clarify the position. The statutory appeal was thereafter filed on 20.03.2026, i.e. approximately nineteen months, or 574 days, after the order dated 23.08.2024, and more than seventeen months after the review application itself. What emerges from this sequence is that the petitioners, having taken fifty-five days to move the review application, thereafter allowed almost sixteen months to elapse without taking any further step, and moved to ascertain the status of the review only after that prolonged period of inaction, filing the appeal about six weeks after the RTI reply. Even accepting that the initial decision to pursue a review was bona fide, the chronology discloses a very substantial period, running into more than a year, during which no explanation beyond mere pendency of the review has been offered for the petitioners' silence.



13. Coming to Section 7(7) of the Act, it provides a specific statutory remedy of appeal against an order passed by the Controlling Authority. The provision, insofar as relevant, reads as under:

"(7) 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."

14. As discernible from the above, the statutory scheme, therefore, creates an initial period of sixty days and a further period of sixty days within which the delay may be condoned upon sufficient cause being shown. The power of condonation is thus expressly circumscribed by the statute and does not extend beyond the outer period of one hundred and twenty days contemplated therein.

15. Adverting to the case in hand, this is not a case of marginal delay. The order of the Controlling Authority is dated 23.08.2024, whereas the statutory appeal was filed only on 20.03.2026. Even reckoning the period from 23.08.2024 itself, the appeal was filed approximately 574 days thereafter, i.e. nearly 454 days beyond the maximum period of 120 days contemplated under Section 7(7) of the Act.



16. It is, however, clarified that Section 7(7) reckons limitation from the date of receipt of the order. The precise date of receipt is not the controversy before this Court, since the petitioners themselves admittedly came to know of the order and invoked proceedings before the very same Controlling Authority by filing a review application dated 17.10.2024. Even on the most liberal reckoning in favour of the petitioners, the appeal filed in March, 2026 was far beyond the statutory outer limit.

17. The legal position concerning the scope of the power of an Appellate Authority under a provision of this nature is no longer res integra. In **Singh Enterprises v. Commissioner of Central Excise, Jamshedpur, (2008) 3 SCC 70**, while considering an analogous statutory scheme under Section 35 of the Central Excise Act, 1944, the Hon'ble Supreme Court held as under:

"8. The Commissioner of Central Excise (Appeals) as also the Tribunal being creatures of statute are not vested with jurisdiction to condone the delay beyond the permissible period provided under the statute. The period up to which the prayer for condonation can be accepted is statutorily provided... The first proviso to Section 35 makes the position clear that the appeal has to be preferred within three months from the date of communication to him of the decision or order. However, if the Commissioner is satisfied that the Appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, he can allow it to be presented within a further period of 30 days. In other words, this clearly shows that the appeal has to be filed within 60 days but in terms of the proviso further 30 days' time can be granted by the appellate authority to entertain the appeal. The proviso to sub-section (1) of Section 35 makes the position crystal clear that the appellate authority has no power to allow the appeal to be presented beyond the period of 30 days. The language used makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning delay only up to 30 days after the expiry of 60 days which is the normal period for preferring appeal. Therefore, there is complete exclusion of Section 5 of the Limitation Act."



18. The same principle was reiterated in *Commissioner of Customs and Central Excise v. Hongo India (P) Ltd., (2009) 5 SCC 791*. The principle has also been applied specifically in the context of Section 7(7) of the Payment of Gratuity Act. In *Metal Box India Ltd. v. B.R. Rangari, 2006(6) ALL MR 187*, and *J.L. Morrison India Ltd. v. Dy. Commissioner of Labour ,Appeal No. 27 of 2007 in Writ Petition No. 3019 of 2006*, the High Court of Bombay held that the Appellate Authority has no power to extend the period for filing an appeal beyond sixty days over and above the initial period of sixty days, and that resort to Section 5 of the Limitation Act is impermissible. In *Indian Red Cross Society v. Vidyaben H. Vyas, (2004) 1 LLJ 802*, the High Court of Gujarat took the same view, holding Section 7(7) to be a self-contained code on limitation. This approach has been followed recently by the High Court of Delhi in *Public Works Department v. Sh. Ghanshyam, W.P.(C) 11656/2025*, decided on 26.09.2025, where, after an extensive review of the case law on the point, including *City College, Calcutta v. State of West Bengal, 1987-I-LLJ-41*, and *Warangal District Co-operative Society Ltd. v. Appellate Authority under Payment of Gratuity Act, 1972, 2000-III-LLJ-616*, it was held that the Appellate Authority under the Act has no power or jurisdiction to condone delay beyond 120 days.

19. The reason for such a conclusion lies in the statutory scheme itself. The legislature, while creating the right of appeal, has simultaneously prescribed the period within which that right may be exercised and has expressly conferred only a limited power of condonation. Once the outer limit is crossed, the Appellate Authority cannot, by invoking general



considerations of equity or sufficient cause, enlarge the jurisdiction vested in it by the statute.

II. EFFECT OF THE REVIEW APPLICATION

20. The principal explanation furnished by the petitioners is that they approached the Controlling Authority by way of review on 17.10.2024 and remained under the impression that the said proceedings would be decided.

21. There is no reason to doubt, for purposes of the present petition, that the petitioners may have entertained a bona fide belief that some form of reconsideration was available before the Controlling Authority. This Court also does not propose to attribute any deliberate intention to delay the appellate remedy to the petitioners.

22. The question, however, is not merely whether the petitioners' conduct was bona fide. The question is whether pursuit of such proceedings could legally suspend or extend the limitation prescribed for the statutory appeal. The answer has to be in the negative.

23. It has not been shown, nor could learned counsel for the petitioners point out, any provision under the Act which vests the Controlling Authority with a power to review, on merits, an order passed by it after a contested adjudication. This precise question came up for consideration before the High Court of Gujarat in **Pitamberdas v. Girishkumar**, 2010 SCC OnLine Guj 2932, where it was held that no provision of the Payment of Gratuity Act, 1972 could be pointed out which empowers the Controlling Authority to review its own order, and that an appeal preferred beyond 120 days is barred by time, the Appellate Authority



having no power to condone the delay beyond that period.

24. In the present case, quite apart from the absence of any such power of review, the petitioners' own pleaded case is that the claim of respondent No.3 was contested by them, that objections were filed and considered, and that the order dated 23.08.2024 was passed after such contest. The review application, therefore, invoked a jurisdiction that did not exist, and its filing cannot be treated as the pursuit of a remedy recognized by the Act.

25. Consequently, the filing of the review application could not, in the facts of the present case, have the effect of suspending the statutory period for filing the appeal under Section 7(7). The petitioners were admittedly aware of the order dated 23.08.2024, as is evident from the fact that they themselves approached the Controlling Authority on 17.10.2024. Once the order was known to the petitioners, the statutory remedy of appeal was available to them. The petitioners chose instead to pursue proceedings before the same authority. That course, even if adopted bona fide, cannot have the effect of rewriting Section 7(7) or enlarging the maximum period prescribed therein.

26. The subsequent RTI application dated 03.02.2026 may demonstrate that the petitioners eventually took steps to ascertain the status of the proceedings. It cannot, however, revive a statutory appellate remedy which had already become barred by the statutory outer limit.

27. Thus, even if the explanation furnished by the petitioners is accepted at its highest and their conduct is assumed to be bona fide, such explanation cannot confer jurisdiction upon respondent No.1 which Section



7(7) itself does not confer.

III. NON-SPEAKING ORDER AND QUESTION OF REMAND

28. There is considerable force in the submission that the order dated 29.04.2026 is extremely brief. The Appellate Authority has essentially concluded that the appeal was time-barred and dismissed it without discussing in detail the explanation furnished by the petitioners.

29. Ordinarily, there can be no dispute with the proposition that a quasi-judicial authority is required to record reasons for its conclusions. Reasons constitute an important safeguard against arbitrary exercise of power and enable the affected party as well as the superior court to ascertain the basis of the decision. The principle enunciated in **Siemens Engineering**(supra) in this regard is well settled.

30. However, the requirement of a reasoned order cannot be considered in isolation from the jurisdiction of the authority passing the order. In the present case, even if the impugned order dated 29.04.2026 were set aside on the ground that the explanation furnished by the petitioners had not been adequately dealt with, the only purpose of remand would be to require the Appellate Authority to reconsider whether the delay could be condoned. Such an exercise, however, cannot alter the statutory position, since the appeal was filed substantially beyond the maximum period for which the Appellate Authority possesses the power of condonation. The Appellate Authority, upon remand, would remain bound by Section 7(7) and could not legally entertain the appeal beyond the statutory outer limit.

31. A writ court does not ordinarily direct performance of an exercise in futility. Remand is justified where reconsideration by the



statutory authority could result in a legally permissible outcome. Where, on undisputed facts, the authority lacks jurisdiction to grant the relief sought, setting aside an order merely because its reasoning is brief and requiring another order to be passed would serve no meaningful purpose. Thus, although the order dated 29.04.2026 could undoubtedly have been more elaborate, its brevity does not, in the peculiar facts of the present case, warrant remand. The ultimate conclusion that the appeal was beyond the period which the Appellate Authority could entertain is legally sustainable.

IV. CHALLENGE TO THE ORIGINAL ORDER

32. This Court has also considered the challenge raised by the petitioners to the original order dated 23.08.2024, notwithstanding the finding that the statutory appeal against the said order was filed beyond the jurisdictional period.

33. The principal challenge is that respondent No.3 had entered service in 1997, i.e. prior to the 2009 amendment, and that the Controlling Authority could not have granted gratuity by taking into account the entire period of service. The said contention does not advance the case of the petitioners. The Hon'ble Supreme Court in **Independent Schools' Federation of India (Regd.) v. Union of India, 2022 SCC OnLine SC 1113**, considered the retrospective operation of the 2009 amendment and held that teachers **who were in service as on 03.04.1997 and retired thereafter, having rendered the requisite period of service**, are entitled to gratuity, with the period of service prior to 03.04.1997 also being taken into account for the purpose of computing the qualifying service.

34. Respondent No.3 admittedly joined service on 01.04.1997 and



worked upto 31.03.2019. He was, therefore, in service on 03.04.1997 and retired much thereafter. The mere fact that his initial appointment preceded the 2009 amendment, therefore, cannot defeat his claim to gratuity.

35. As regards computation, it is seen that respondent No.3 had himself claimed, in his application before the Controlling Authority, a last drawn salary of Rs.23,090/-; the Controlling Authority, however, proceeded on the lower figure of Rs.22,287/- reflected in his bank statement, Ex.A-3. The petitioners' grievance is not that a specific alternative figure ought to have been adopted, but that the Controlling Authority accepted the bank statement figure without any inquiry under Section 7(4)(c) of the Act into its components. This contention, in the manner in which it has been urged, does not disclose any patent error warranting interference in writ jurisdiction: the figure actually adopted is lower than even the claimant's own pleaded figure, so that no prejudice to the petitioners is shown, and no specific component of wages wrongly included, nor any mathematical error, has been identified either before the Controlling Authority or in this petition.

36. The petitioners' grievance regarding computation was essentially a matter for examination in the statutory appeal. That remedy, however, was not availed within the statutory period. The extraordinary jurisdiction under Articles 226/227 cannot ordinarily be converted into a substitute for a statutory appeal which has been lost by efflux of time. To permit the petitioners to have the entire factual and computational merits examined in writ jurisdiction after the statutory appellate remedy has become barred would, in substance, permit circumvention of the limitation prescribed by the legislature.



37. No patent jurisdictional error, violation of the principles of natural justice or manifest perversity has been demonstrated in the order dated 23.08.2024 so as to justify such exceptional interference.

38. This Court is conscious that the claim in question concerns a retiral benefit and that gratuity is intended to provide social security to an employee upon cessation of service. At the same time, the statutory remedy available to an aggrieved employer is equally governed by the limitation prescribed by the legislature.

39. In the present case, the petitioners were admittedly aware of the order dated 23.08.2024. Instead of pursuing the statutory appeal within the period prescribed under Section 7(7), they chose to approach the Controlling Authority by way of review. Whatever may have been the bona fides behind such course, the same could not suspend or extend the statutory period for filing the appeal.

40. The appeal filed on 20.03.2026 was, accordingly, far beyond the maximum period within which respondent No.1 could exercise the power of condonation under Section 7(7) of the Act. Respondent No.1, therefore, could not have entertained the appeal on merits. The fact that the impugned order dated 29.04.2026 does not contain an elaborate discussion of the explanation furnished by the petitioners does not warrant remand, since such remand would necessarily culminate in the same result on account of the statutory bar.

41. As regards the original order dated 23.08.2024, the petitioners have failed to demonstrate any jurisdictional error, patent illegality or violation of natural justice warranting interference under Articles 226/227 of



the Constitution. The entitlement of teachers in private educational institutions to gratuity, including computation of the qualifying service of those who were in service on 03.04.1997, stands settled by the judgment of the Hon'ble Supreme Court in *Independent Schools' Federation of India (supra)*.

42. Consequently, this Court finds no ground to interfere with either of the impugned orders. The writ petition is, accordingly, dismissed.

43. The prayer for stay of recovery proceedings, being consequential to the challenge to the aforesaid orders, does not survive.

44. The amount of Rs.2,82,873/- deposited by the petitioners towards the statutory pre-deposit at the time of filing the appeal shall be dealt with by respondent No.2-Controlling Authority in accordance with law and shall be adjusted towards the amount payable under the order dated 23.08.2024, subject to any order that may be passed by a competent Court.

45. Civil miscellaneous application pending, if any, shall also stand disposed of.

(KIRTI SINGH)
JUDGE

August 13, 2026

Ritika

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No