

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.658 of 2015

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1. Muzaffarpur Zila Khadi Gramodyog Sangh, Head Office Sarvoday Gram (Kanhauli), P.O. Ramna, P.S. Mithanpura, District Muzaffarpur, Bihar PIN Code 842002 through its Secretary Birendra Kumar S/o Late Krishnadeo Singh Resident of Muzaffarpur Zila Khadi Gramodyog Sangh, Muzaffarpur, Head Office Sarvoday G;ram (Kanhauli, P.O. Ramna, P.S. Mithanpura, District Muzaffarpur, Bihar, Pin - 842002.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Labour Resources Department, Vikash Bhawan, New Secretariat, Bailey Road, Patna-800001.
2. The Deputy Labour Commissioner-cum-the Controlling Authority under the Payment of Gratuity Act, Muzaffarpur.
3. Sri Mundrika Prasad Thakur S/o Late Durga Prasad Thakur Resident of Village Pranpurr, Budhauri, P.S. Gharbhara, P.S. Bochahan, District Muzaffarpur. At present resident of (as well as Correspondence Address) Sri Mundrika Prasad Thakur, Muzaffarpur Zila Khadi Gramodyog Sangh Complex, Sarvoday Gram (Kanhauli), P.O. Ramna, P.S. Mithanpura, District Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar, Adv.

For the Respondent/s : Mr. A.Ujjwal, S.C. 25

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 18-03-2015 The petitioner has questioned the order dated 28.3.2014 passed by the respondent No. 2 Deputy Labour Commissioner-cum-Controlling Authority under the Payment of Gratuity Act, 1972(hereinafter referred to as 'the Act') and the rules framed thereunder whereby the application filed by the respondent No.3 for payment of gratuity bearing Gratuity Case No. 5 of 2007 was allowed and direction was given to the petitioner to make payment of the same along with interest quantified at the rate of 10%. The

petitioner is also aggrieved by the order passed on review arising from Misc. (Gratuity) Case No. 1 of 2014 which was dismissed by the same statutory authority vide order bearing Memo No. 2232 dated 23.9.2014. Copies of the orders impugned are placed at Annexures-2 and 3 respectively to the writ petition.

Mr. K.N. Gupta representing the workman respondent No. 3 while contesting the prayer made by the petitioner on merits submits that Section 7(7) of 'the Act' provides for a remedy of appeal and the petitioner without exhausting such statutory remedy of appeal as provided under the Act has straightway moved in the writ jurisdiction. The provision of Section 7(7) of the Act vests a party aggrieved by an order passed by the statutory authority under Section 7(4) to prefer an appeal before the appropriate authority within 60 days of receipt of such order.

Mr. Gupta submits that in the present case, the appellate authority would be the Labour Commissioner.

Having heard learned counsel for the parties and taking note of the provisions underlying Section 7(7) of the Payment of Gratuity Act, this Court without expressing its opinion as regarding the merits of the case would dispose of this writ petition with liberty to the petitioner to exhaust the remedy of appeal so available to him.

Since the writ petition was filed within the period of limitation provided under Section 7(7) of the Act hence if the appeal is filed within eight weeks from today it shall be treated to be an appeal preferred within a statutory period and would be considered and disposed of by the appellate authority in accordance with law and after giving an opportunity of hearing to the petitioner as well as the respondent No.3. An expeditious disposal within a period of three months after filing of such appeal shall be appreciated.

This writ petition is disposed of.

(Jyoti Saran, J)

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