

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 341 of 2015**

Smt. Deepa Bai Rajput W/o Late Bahadur Rajput, aged about 48 years old, R/o village & PO Jhaphal, Tahsil / PS Kosmi, District Mungeli, Chhattisgarh.

---- Appellant

Versus

1. State of Chhattisgarh, Through - its Secretary, Department of Forest, Capital Complex, Mahanadi Bhawan, Mantralaya, Raipur, Chhattisgarh.
2. Divisional Forest Officer, Katghora Forest Division, Katghora, District Korba Chhattisgarh.

---- Respondents

For Appellant	:	Shri Vinod Deshmukh with Shri P.S. Painkara, Advocates.
For Respondents/State	:	Shri UNS Deo, Government Advocate.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Judgment on Board

Per Navin Sinha, Chief Justice

16/07/2015

1. IA No. 1 of 2015 has been filed to condone delay of 167 days in filing the appeal.
2. Having heard Learned Counsel for the parties and satisfied that in the interest of justice, delay needs to be condoned, it is ordered accordingly.
3. The present appeal arises from order dated 20.11.2014 preferred by the Respondents declining to interfere with the order dated 17.4.2014 passed under Section 7 of the Payment of Gratuity Act, 1972 (hereinafter called 'the Act') by the Controlling Authority opining that there was an alternative remedy of appeal available to the Respondents.
4. Learned Counsel for the Appellant submits that the limitation for filing appeal was 60 days from 17.4.2014. It could be extended for another 60 days provided sufficient cause was shown. The writ petition was itself filed on 17.11.2014 much after the expiry of the original 60 days. He next submits that

though there is a provision under Section 7(7) of the Act for condonation of delay, it could not be ipso facto by reason of the order of the Learned Single Judge, but solely at the discretion of the appellate authority. He next submits that the appeal was maintainable subject to certain conditions of deposit. The Respondents are required to comply with the aforesaid conditions. The order dated 20.11.2014 may be clarified to that extent only.

5. We have heard Learned Counsel for the State also.

6. Even if the Learned Single Judge declined to interfere with the order under challenge on the ground of availability of alternative statutory remedy, it was not a carte-blanche for the Respondents to prefer appeal without complying with the statutory conditions for maintainability of the same both with regard to limitation and compliance of deposit as provided for in Section 7(7) of the Act. The discretion of the appellate authority to condone or not to condone the delay remains unfettered and cannot be construed as restricted in any manner by the order dated 20.11.2014.

8. The appeal stands disposed with the aforesaid clarification.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE