

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

**MONDAY, THE SECND DAY OF NOVEMBER TWO
THOUSAND AND FIFTEEN**

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Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.35626 of 2015

Between:

Hyderabad Nursing Home (P) Ltd.,
5-9-29/40, Basheerbagh, Hyderabad,
Rep. by its Manager – Admin & HR,
Mr. Emmanuel Jangam, S/o. Narayana.

.. Petitioner

AND

State of Telangana,
Rep. by its Prl. Secretary,
Labour & Employment Department,
Secretariat, Hyderabad & 3 others

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Respondents

The Court made the following:

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HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.35626 of 2015

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ORDER:

The petitioner challenges the order passed by the appellate authority under the Payment of Gratuity Act, 1972. The petitioner filed appeal before the appellate authority under the Payment of Gratuity Act, 1972, which was assigned PGA No.01 of 2015 aggrieved by the orders of the original authority, dated 30.12.2014, in P.G.No.13 of 2012. The original authority directed payment of gratuity amount of Rs.3,92,308/- to the 4th respondent herein. During the pendency of the appeal, the 4th respondent herein filed I.A.No.03 of 2015 praying to release the amount of gratuity quantified. The appellate authority directed release of 50% of the amount out of the entire amount deposited by the petitioner while preferring the appeal.

2. Learned counsel for the petitioner contends that the appellate authority ought to have decided the appeal on merits in stead of passing interlocutory orders and that the appellate authority is not vested with power to pass interlocutory orders. He is only required to decide the appeal expeditiously. He submits that there was no justification to pass interlocutory orders without deciding the appeal. He further submits that it would be difficult for the petitioner to recover the amount once the money is paid to the 4th respondent even in the event of the petitioner succeeding in

the appeal filed by him and the petitioner has reasonable hope of success in the appeal as important issues were not considered by the original authority while directing payment of gratuity.

3. Learned counsel for the 4th respondent made submissions on merits and contended that illegally, the gratuity amount is held up even though other benefits are paid.

4. Whether the 4th respondent is entitled to receive the gratuity amount is a matter which is pending consideration by the appellate authority and the Court is not inclined to deal with those contentions or express any opinion.

5. The only issue for consideration is whether payment of 50% of the amount of gratuity directed to be paid by the appellate authority is valid.

6. During the course of arguments, learned counsel for the 4th respondent offered to give Bank Guarantee for an amount of Rs.1,00,000/- if the 50% of the gratuity amount is released to him and he shall also give an undertaking that in the event petitioner succeeds in the appeal, she would remit the entire amount immediately and an affidavit would be filed to that extent before the original authority. Having regard to the said statements, I am not inclined to go into the issue of competency of the appellate authority to pass the interlocutory order, pending disposal of the appeal and such issues are left open to be agitated by the petitioner.

7. Accordingly, the Writ Petition is disposed of affirming the interlocutory order passed by the appellate authority subject to the 4th respondent filing an affidavit before the appellate authority within a period of one (1) week from the date of receipt of copy of this order stating that in the event of the petitioner succeeding in the appeal, the 4th respondent shall remit the entire amount immediately to the petitioner and shall also furnish Bank Guarantee for an amount of Rs.1,00,000/- (Rupees one lakh only). Subject to furnishing of bank guarantee and affidavit, the amount as directed by appellate authority, shall be released by the Controlling Authority under the Payment of Gratuity Act, 1972 and the Assistant Commissioner of Labour-III, TAKS Bhavan, RTC X Roads, Hyderabad (3rd respondent). There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 2nd November, 2015

Note: Issue C.C. tomorrow.

(b/o.)
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HON'BLE SRI JUSTICE P.NAVEEN RAO

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