

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPL No. 119 of 2016

1. State Of Chhattisgarh Through : The Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Chhattisgarh (The Petitioner No. 1 Was Not A Party Before The Learned Labour Court, But Has Been Impleaded As Petitioner No. 1 In The Instant Petition As The Proper Course Is To Implead The State Government Through The Secretary Of Concerned Department).
2. The Chief Engineer, Hasdeo Kachhar, Water Resources Department, Bilaspur, District Bilaspur, (Chhattisgarh)
3. Executive Engineer, Water Resources Division, Kawardha, District Kabirdham, (Chhattisgarh)

---- Petitioners

Versus

1. Virendra Singh Thakur S/o. Shri Sardar Singh Thakur, R/o. Bairapara, Pandariya Tahsil Pandariya District Kabirdham, (Chhattisgarh)
2. The Appellate Authority, Under The Payments Of Gratuity Act, 1972/ Deputy Labour Commissioner, Office Of The Commissioner, Labour, Indrawati Bhawan, Naya Raipur (Chhattisgarh)
3. The Controlling Authority, Under The Payments Of Gratuity Act, 1972/ Labour Officer, Kawardha, District Kabirdham (Chhattisgarh)

---- Respondents

For Petitioners	: Shri Gary Mukhopadhyay, Advocate
For Respondent No.1	: Shri KPS Gandhi, Advocate

S.B.:Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

19/07/2016

Heard on admission.

1. Challenge is made to the order passed by the Appellate Authority on 30th July, 2015 by which, the petitioners' appeal against order of Controlling Authority passed under the Payment of Gratuity Act, 1972 (for short "*the Act of 1972*") has been dismissed as barred by limitation and the order of Controlling Authority upheld.

2. Learned counsel for the petitioners submits that initially an appeal was filed against the order of Controlling Authority without depositing the mandatory amount. The appeal was dismissed and, thereafter, fresh appeal was filed along with pre-deposit. That too was also dismissed without consideration. In these circumstances, delay in filing the appeal ought to be condoned.
3. At the first place, the first appeal itself was filed after more than one year. Obviously, the second appeal was after expiry of period of limitation prescribed under the law. Even if the petitioners would have filed an application for condonation of delay, in view of provision contained in Section 7 (4) of the Act of 1972, the maximum period by which delay might be condoned was 60 days. Obviously, therefore, in cases where appeal is barred by more than 60 days, the Appellate Authority has no jurisdiction to even condone the delay. The statutory remedy in such cases is not available.
4. The appellate authority has committed no jurisdictional illegality or perversity in dismissing the appeal.
5. The petition has no merit. The same deserves to be and is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge