

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8619 of 2016

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The General Manager (Region), Food Corporation of India, Regional Office,
Arunanchal Building, Exhibition Road, Patna 800 001

.... Petitioner

Versus

1. The Union of India, through the Secretary, Ministry of Labour & Employment,
New Delhi
2. The Regional Labour Commissioner (Central), Patna - cum - Appellate Authority
under the Payment of Gratuity Act, 1972 Maurya Lok Complex, 2nd Floor, Patna
800 001
3. The Assistant Labour Commissioner (Central) - Cum - Controlling Authority
under the Payment of Gratuity Act, 1972 Maurya Lok Complex, 2nd Floor, Patna
800 001
4. Shri Madina Shah, Ex - Manager (Depot), Resident of Iqbal Hasan Lane, Near
Imambara, Mehadi Hasan Chowk, MIT Brahampura, District - Muzaffarpur
842003

.... Respondents

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Appearance :

For the Petitioner/s : Mr. P.K. Verma, Sr. Advocate
Dr. Mankeshwar Tiwari, Advocate
For the Respondent Nos.1 to 3 : Mr. S.D Sanjay, A S.G.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 12-05-2017

Heard Mr. P.K. Verma, learned Senior Advocate
appearing on behalf of the petitioner and Mr. Anshuman Singh,
learned Advocate appearing on behalf of the Union of India and
perused the impugned order passed by the appellate authority.

2. This writ application has been filed against the
order of the Appellate Authority under the payment of Gratuity Act,
1972 (for short 'the Act') dated 21/22.05.2015 passed in Appeal
Case No.36/7/2015 Appeal/RLC whereby the appeal of the



petitioner filed against the order dated 3/7th January, 2014 passed by the Assistant Labour Commissioner-cum-Controlling Authority in file No.48/ 1(12) / 2013/ALC-I by which the petitioner has been directed for making payment of gratuity with interest to the respondent No.4 has been dismissed.

3. The Appellate Authority has dismissed the appeal filed by the petitioner under sub-section (7) of Section 7 of the Act on the ground that the petitioner failed to deposit the amount of gratuity with interest as directed by the Controlling Authority.

4. Mr. P.K. Verma, learned Senior Advocate appearing on behalf of the petitioner submitted that the amount of gratuity with interest as directed by the Controlling Authority was not an admitted amount and thus in view of sub-section (4)(a) of Section 7 of the Act, the petitioner was not required to deposit the amount.

5. The argument advanced by the learned Senior Advocate for the petitioner for not depositing the amount either with the Controlling Authority or the Appellate Authority cannot be accepted.

6. The second proviso to sub-section (7) of Section 7 of the Act clearly mandates that no appeal by an employee 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 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. Simply because the petitioner disputes the amount, the same cannot be a ground for not depositing the same.

7. It would be evident from second proviso to sub-section (7) of the Section 7 of the Act that the deposit of amount ordered by the Controlling Authority is a pre-condition to entertain an appeal. The Appellate Authority cannot admit an appeal unless at the time of preferring an appeal, the appellant either produces a certificate of the Controlling Authority to the effect that the appellant has deposited with the authority an amount like to the amount of gratuity required to be deposited under sub-section (4) of section 7 of the Act. Thus, the second proviso to sub-section (7) of Section 7 of the Act clearly prohibits admission of the appeal in absence of the due compliance of the necessary requirements mentioned therein.

8. True, it is that clause (a) of sub-section (4) of Section 7 provides that if there is any dispute to the amount of gratuity payable, the employer is required to deposit with the



Controlling Authority such amount as he admits to be payable by him as gratuity. However from a bare reading of clauses (b) (c) (d) and (e), it would be evident that under any circumstance the deposit of the gratuity amount, whether disputed or undisputed cannot be postponed for any reason. From the language of sub-section (7) of Section 7, it is absolutely clear that the appellant is required to deposit the amount of gratuity as directed by the Controlling Authority while filing an appeal. In case of failure to deposit the amount within the statutory period prescribed under the Act, the Appellant cannot invoke the vested right to appeal, as the same is a pre-condition to entertain an appeal.

9. Thus, if the Appellate Authority has dismissed the appeal on the ground of non-deposit of the amount of gratuity required to be deposited under the Act, no illegality can be found with the order impugned.

10. The writ application, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.05.2017
Transmission Date	NA

