

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (L) No.4933 of 2011

M/s P.D. Bidi Company through power of attorney holder of partners Prem Kumar Yadav S/o Maikulal Yadav, aged about 62 years R/o Bastar Road, Dhamtari, Tehsil and District Dhamtari (CG).

---- Petitioner

Versus

1. Appellate authority under the payment of gratuity Act, 1972 and In charge Deputy Labour Commissioner, Chhattisgarh Raipur, office of the Labour Commissioner, Chhattisgarh Raipur (CG).
2. Controlling authority and Assistant Labour Commissioner, Raipur (CG).
3. Kali Ram, S/o late Shri Hari Kishan R/o village Achota, Police Station and District Dhamtari (CG).

---- Respondents

For Petitioner	:	Shri B.D. Guru, Advocate.
For Respondent	:	None.

SB: Hon'ble Shri Justice P. Sam Koshy

Order On Board

28/06/2017

1. Heard Learned Counsel for the Petitioner.
2. Respondent No. 3 filed an application for payment of gratuity under the Payment of Gratuity Act, 1972 (hereinafter called 'the Act') before the Controlling Authority. The Petitioner did not appear despite valid service of notice leading to an ex-parte order dated 20.2.2004 for payment of Rs. 20,960/- within 30 days. An application was preferred against the ex-parte order which was rejected on 18.1.2005 holding that no valid ground had been furnished for not appearing despite valid service of notice. Against the same, the Petitioner preferred an application before the Appellate Authority which dismissed the appeal on the ground that

the statutory pre-deposit in accordance with Rule 7(4) of the Act for 2 preferring an appeal had not been made. The appeal therefore was not maintainable.

3. Learned Counsel for the Petitioner submits that the Petitioner during hearing of the appeal had offered to make the necessary deposit.
4. What may or may not have transpired before the Appellate Authority cannot be urged before this Court when there is no such recital contained in the order sheet. If the Petitioner was of the opinion that his argument had not been correctly recorded, the proper remedy was to move before the Appellate Authority immediately.
5. On merits, the Petitioner has not furnished any valid ground for not appearing despite valid service of notice. The opportunity to assail the ex-parte order was also wasted away by not complying with the statutory requirement of pre-deposit. The Court finds no reason to interfere. An identical Writ Petition (L) No.4897 of 2011 has also been decided by this court vide order dated 21.01.2016, wherein similar view has been taken.
6. The writ application is dismissed.

Sd/-

(P. Sam Koshy)
Judge

inder