

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (L) No.156 of 2016

1. State of Chhattisgarh Through Secretary, Water Resources Department, Mahanadi Bhawan, Mantralaya, Naya Raipur, Chhattisgarh.
(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 Govt. through the Secretary of the concerned department).
2. Executive Engineer, Water Resources Division, Kawardha, District Kabirdham, Chhattisgarh.

---- Petitioners

Versus

1. Pardeshi Prasad Sharma R/o Village Dullapur, Post Raweli, Tahsil Kawardha, 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 Payment Of Gratuity Act 1972/ Labour Officer, Kawardha, District Kabirdham Chhattisgarh.

---- Respondents

For Petitioners	:	Shri Gary Mukhopadhyay, Dy. Govt. Advocate.
For respondent No.	:	Shri Dharmesh Shrivastava, Advocate.

SB: Hon'ble Shri Justice P. Sam Koshy

Order On Board

29/06/2017

1. Heard on admission.
2. 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.
3. 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.

4. 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.
5. The appellate authority has committed no jurisdictional illegality or perversity in dismissing the appeal. The stand of this court stands fortified from the decision of Division Bench of this court in Writ Appeal No.349 of 2016, decided on 22.08.2016.
6. The petition has no merit. The same deserves to be and is accordingly dismissed.

Sd/-

(P. Sam Koshy)
Judge

inder