

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 4771 OF 2016

(Sharad Nand Lal Das s/o Late Mahabir Lal Das vs. The Assistant Labour Commissioner
(Central), Nagpur and the Controlling Authority under the Payment of Gratuity Act)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

CORAM : B.P. DHARMADHIKARI &
MRS. SWAPNA JOSHI, JJ.
FEBRUARY 01, 2017.

Heard Shri A.M. Sudame, learned counsel for the petitioner and Shri S.A. Chaudhari, learned counsel for the respondent.

2. The petitioner, who is entitled to receive Gratuity upon his superannuation on 31.01.2012, has actually received it on 02.11.2015. After initial adjudication of his application under Section 7 of the Payment of Gratuity Act, 1972 (hereinafter referred to as the Act), as per orders of the Competent Authority, the amount to which the petitioner is entitled on account of gratuity with interest till then payable, was deposited by the employer on 05.07.2013 with the respondent. The order of the Competent Authority was then questioned in the appeal under Section 7(7) of the Act and thereafter before the learned Single Judge of this Court by the employer unsuccessfully.

3. It appears that to protect the interest of the employer in the meanwhile, the employer made a request,

not to disburse the amount to the petitioner. Writ Petition filed before this Court was dismissed by the learned Single Judge of this Court on 08.07.2015 and amount has been paid to the petitioner on 02.11.2015, by directly depositing it in his bank account. Thus, the petitioner claims interest for the period from 05.07.2013 till 02.11.2015.

4. As provided for in Section 8 of the Act, the petitioner, therefore, has submitted an application in Form 'T' to the office of the respondent. The grievance now is, the respondent has not taken any action upon it.

5. Shri Chaudhari, learned counsel states that the interest as envisaged under the Payment of Gratuity Act, along with gratuity amount was already received by the office of the respondent on 05.07.2013 and that amount has been paid on 02.11.2015. Hence, the demand for further interest and application in form 'T' cannot be looked into.

6. The petitioner is entitled to grant of interest till the amount is actually received by him. The question here may be about the liability. Whether interest on amount in deposit after 05.07.2013 should be shouldered by the employer – WCL or not, is the issue which arises for consideration. However, it is open to the respondent to consider that issue and pass suitable orders. He cannot on that count refuse to take cognizance of the application in form 'T' moved by the petitioner on 26.02.2016.

7. Hence, with a direction to the respondent to pass suitable orders on the said application within four weeks from the date of receipt of this order, we partly allow this writ petition and dispose it of. However, there shall be no order as to costs.

JUDGE

JUDGE

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