

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16162 of 2015

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The General Manager (Region), Food Corporation Of India, Regional Office, Arunachal Building, Exhibition Road, Patna - 800001.

... .. Petitioner/s

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 - 800001.
3. The Assistant Labour Commissioner (Central)-cum-Controlling Authority under the Payment of Gratuity Act, 1972, Maurya Lok Complex, 2nd Floor, Patna - 800001.
4. Shri Srilal Paswan, ex-Assistant Grade I (Depot), Resident of Rasulpur Zilani, Opp. St. Mary School, Lelin Chowk, Muzaffarpur - 842001 (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. P. K. Verma, Senior Advocate, Mr. Suman Kumar, Advocate
For the Res. No.4	:	Mr. D. K. Sinha, Senior Advocate Mr. Nirmal Kumar, Advocate
For Union of India	:	Mr. Rajesh Kumar Verma, CGC

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

2 30-11-2018 Heard the parties.

In the present case, the Food Corporation of India has filed an application against order dated 18.05.2015 passed in Appeal Case No. 36/9/2015-Appeal/RLC by the Appellate Authority (Regional Labour Commissioner) by which the Appellate Authority has rejected the appeal on the ground that the petitioner has not complied the provision as provided under Section 7 (7) of the Payment of Gratuity Act, 1972 read with Rule 18 of the Payment of Gratuity (Central Rules, 1972, by which depositing the amount as calculated by the Controlling Authority.



Learned counsel for respondent no.4 has placed reliance on the order passed by this Court in C.W.J.C. No. 8619 of 2016 in the case of General Manager, Food Corporation of India Vs. Union of India and which has been affirmed in L.P.A. No. 1203 of 2017, wherein the Court has directed to deposit the amount as calculated by the Controlling Authority. When the Statute has provided that the certain amount has to be deposited in a prerequisite condition, in such circumstances, unless the amount is deposited to the Controlling Authority, it will not be treated to be an appeal. Only Authority has jurisdiction to adjudicate the appeal in the event the calculated amount is deposited.

In such view of the matter, the present case is entirely covered by the case of The State of Bihar & Ors. Vs. The Union of India & Ors. (C.W.J.C. No. 8619 of 2016).

Accordingly, this writ petition is dismissed with a liberty that if petitioner deposits the money within a period of 30 days from today, the appeal will be treated to have been restored and Appellate Authority will decide the matter in accordance with the law.

(Shivaji Pandey, J)

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