

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WA No. 542 of 2017

1. State Of Chhattisgarh, Through Secretary, Water Resources Department Mahanadi Bhawan Mantralaya, Naya Raipur Chhattisgarh.
2. The Executive Engineer , Tandula Water Resources Division Durg District Durg Chhattisgarh.

---- Petitioner

Versus

1. Shri Ganesh Ram Deshmukh S/o Late Shri Parau Ram Deshmukh R/o Village Sakraud Post Rahud Tahsil Gunderdehi , District Balod Chhattisgarh.
2. The Appellate Authority , Under The Payment Of Gratuity Act, 1972 & Deputy Labour Commissioner , Officer Of The Labour Commissioner Chhattisgarh , Indrawati Bhawan, Police Station Mandir Hasaud District Naya Raipur Chhattisgarh.
3. The Controlling Authority , Under The Payment Of Gratuity Act , 1972 And Office Of Assistant Labour Commissioner Durg Police Station Kotwali District Durg Chhattisgarh.

---- Respondent

For Appellants

Mr. R.K. Gupta, Dy. AG

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board By

Prashant Kumar Mishra, J.

4/1/2018

IA No.01

1. Heard.
2. This is an application for condonation of delay in filing the appeal.
3. On due consideration, the application is allowed and the delay of 157 days is condoned.

WA No.542 of 2017

4. Heard on admission.
5. The State's appeal before the Appellate Authority under the Payment of Gratuity Act, 1972 was admittedly barred by more than 120 days. Therefore, the appeal was dismissed on the ground that the Appellate Authority has no power to condone the delay over and above the period of 120 days.
6. The writ Court has referred to the judgment rendered by the Division Bench in the matter of **Kirtan Ram Thakur Vs. State of Chhattisgarh and others** (WA No.349 of 2016) quoting para 17, 18 & 19 thereof to hold that any appeal preferred after 120 days i.e. the original period of limitation of 60 days together with the condonable period of further 60 days, is not maintainable as the Appellate Authority has power to condone the delay of 60 days,

in all 120 days.

7. The order passed by the Division Bench in the matter of **Kirtan Ram Thakur (supra)** has attained finality, therefore, the writ Court has rightly dismissed the writ petition referring to the order passed in **Kirtan Ram Thakur (supra)**.
8. The present writ appeal is, therefore, dismissed.

Sd/-
Judge

(Prashant Kumar Mishra)

Sd/-
Judge

(Ram Prasanna Sharma)

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