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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 6751/2018 & CM Nos.25645-46/2018

RAM KUMAR GUPTA Petitioner

Through: Mr.Azad Ahmad &
Mr.Ashok Kumar, Advocates

versus

DY. LABOUR COMMISSIONER
(CENTRAL) AND ORS. Respondents

Through: Ms.Biji Rajesh, Adv.for R-1 & R-2
Mr.Jasbir Bidhuri, Advocate for R-3

CORAM:
HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **03.07.2018**

1. The petitioner is aggrieved by the decision dated 14th December, 2016, whereby the Appellate Authority has dismissed Gratuity Appeal No.36(47)/2016 for the following reasons:

“On perusal of records available in the claim application No.ALC-I/36(124)/2015 and the memorandum of appeal along with reply and subsequent rejoinder and the arguments submitted by the appellant and respondent it is evident that the matter has already been settled by Hon'ble High Court, Delhi in WP(C) No.9257/2015 preferred by the Appellant. The Hon'ble High Court has ordered that gratuity is not payable to the appellant. Hence in view of the judgment of the Hon'ble High Court, Delhi in WP 9237/2015 the CA has rightly held that the appellant is not entitled to any gratuity as the issue has already been decided by the Hon'ble High Court, Delhi and it operates as res-judicata and bars the authority to entertain the claim application.

In view of the above, I, therefore, find no reason to interfere with the order of the CA and thus confirm the order accordingly.”

2. Along with the writ petition an application has also been filed bearing CM No.25645/2018 for condonation of delay of 523 days on the ground of old age of the petitioner and he being suffering from depression. However, the petitioner has preferred not to file his medical record to explain the delay.
3. A perusal of the record shows that while deciding RSA No.135/2004, the petitioner was held not entitled to payment of gratuity.
4. Learned counsel for the petitioner fairly concedes that the order dated 15th March, 2011 in RSA No. 135/2004 was never challenged. Hence, it has attained finality. Though the petitioner had been held not entitled to payment of gratuity in the year 2011, the petitioner again invoked the writ jurisdiction of this Court by filing W.P.(C) 9237/2015 which was dismissed observing that the claim of the petitioner already stands negated in the second appeal, hence, rejection of his claim by the respondent was justified.
5. In the above facts and circumstances the Appellate Authority under the Payment of Gratuity Act was bound by the decision of this Court in W.P.(C) 9237/2015 and RSA No.135/2004.
6. Legal position is well settled that under Article 226 of the Constitution of India though there can never be a case where the Court cannot interfere in a matter after passage of a certain length of time but, ordinarily, the Court may refuse to exercise its extra-ordinary power under Article 226 in case of persons who do not approach it expeditiously for relief and who simply stand by and allow a state of affairs to continue for several years and then approach Court to put forward stale claims thereby trying to unsettle the settled matters.

7. The present writ petition is hit by delay and latches as claim of the petitioner for gratuity was negated in the year 2011 in RSA 135/2004.
8. Even if the huge delay in filing the writ petition is ignored or condoned, the fate of the petition remains the same for the simple reason that the Appellate Authority could not have gone beyond the finding of this Court that petitioner was not entitled to gratuity.
9. The writ petition is dismissed along with pending application.

PRATIBHA RANI, J.

JULY 03, 2018

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