

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5434 of 2019

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The Chairman, Madhya Bihar Gramin Bank, (Now known as Dakshin Bihar Gramin Bank) Head Office, Sri Vishnu Commercial Complex, Asochak Chowk, New Bypass Road, (N.H.30), Patna-8000016.

... .. Petitioner/s

Versus

1. The Union of India through the Ministry of Labour and Employment, New Delhi.
2. The Assistant Labour Commissioner-1 (C)- cum-Controlling Authority under the Payment of Gratuity Act 1972, 'A' Block, 2nd Floor, Room no.-17, Maurya Lok Complex, Dak Bunglaw Road, Patna-800001.
3. Shri Birendra Kumar Son of Late Nand Kishore Prasad, Teachers Colony Ramchandarpur, Biharsharif, Nalanda-803101.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Mahesh Narayan Parbat, Sr. Adv. M/s Ved Prakash Srivastava and Bhanu Prakash
For the Respondent/s	:	Mr.S.D. Sanajay (ADSG)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

2 25-03-2019 Heard learned counsel for the petitioner and learned counsel for the respondents.

2. In this case, the petitioner first has argued that his review petition has been rejected by a cryptic order on holding that the review petition is not maintainable.

3. This Court has put a question as to whether it is a substantive review or procedural review. The learned counsel for the Bank has replied, it is a procedural review but during argument it has transpired that after the notice by the Controlling Authority, the Bank has appeared and participated in



the proceeding, but the grievance has been raised with regard to the manner calculation of interest has been done and for that the review petition was filed.

4. This Court feels that it was a substantive review and rightly the Reviewing Authority has refused to entertain the review application, as the judgment reported in AIR 2005 SC 1782 (Karpa Mazdoor Ekta Union vs. Birla Cotton Spinning and Waiving Mills Ltd. and another) : 1980 Supp SCC 420 (Grindlays Bank Ltd. vs. Central Government Industrial Dispute) has been relied upon by the Bank does not apply to the fact of the present case and thereafter, he has taken back to press this petition challenging the merit of the order passed by the Controlling Authority with regard to the calculation of interest. This Court feels that instead of approaching the petitioner to the High Court directly, he should have challenged the order of the Controlling Authority before the Appellate Authority in terms of section 7 (7) of the Payment of Gratuity Act, 1972. Let the petitioner file an appeal in terms of payment of Gratuity Act. If the money is deposited to the Controlling Authority, he will not release the same till the final outcome of the appeal. If the limitation petition with regard to condonation of delay is filed, the Authority will take into consideration the pendency of this



case before this Court. If the proper reason has been assigned, the Appellate Authority will decide the case on merit as well as on the limitation petition.

5. With the above observation and direction, this petition is disposed of.

(Shivaji Pandey, J)

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