

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10799 of 2017

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Executive Director (East), Food Corporation of India, 10A Middleton Road,
Kolkata-700071.

... .. Petitioner

Versus

1. The Union of India through the Secretary, Ministry of Labour and 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. Uma Kant Jha, Son of late Janardan Jha, Resident of Village, P.O. Police Station- Bangaon, District- Saharsa.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Prabhakar Tekriwal, Advocate
For the Respondent/s : Mr. Rajni Kant Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date : 17-05-2019

Heard learned counsel for the petitioner and
learned counsel for the respondents.

In this case, the petitioner is challenging the order dated 01.07.2016 passed by the Regional Labour Commissioner (Central), Patna, in Case No. 36/7/16-Appeal /RLC/DY.CLC, by which the appeal of the petitioner has been rejected on the ground that the amount assessed by the Controlling Authority



has not been deposited and as such, the appeal is not maintainable under Section 7(7) of the Payment of Gratuity Act, 1972, which envisaged pre-condition of deposit of the amount and the appeal should be attached with the certificate showing the deposit of the amount, but the appeal has been filed by the petitioner without any certificate of Assistant Labour Commissioner of deposit of the amount assessed by the Controlling Authority.

Learned counsel for the petitioner-Food Corporation of India submits that on technical ground the appeal has been dismissed. He further submits that the petitioner-Food Corporation of India is ready to deposit the amount, but the experience shows that as and when the amount is deposited, the Controlling Authority or Appellate Authority used to release the amount, thereby the appeal becomes infructuous.

In such view of the matter, let the petitioner deposit the amount, as has been assessed by the Controlling Authority, in terms of the provision of the Payment of Gratuity Act, 1972. On deposit of the amount, the Appellate Authority shall decide the appeal filed by the petitioner on its merit.

Accordingly, the order dated 01.07.2016 passed by the Regional Labour Commissioner (Central), Patna, in Case



No. 36/7/16-Appeal /RLC/DY.CLC, is hereby quashed.

In the result, the writ petition is allowed to the
above extent.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	18.05.2019
Transmission Date	

