

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11815 OF 2018

Maharashtra State Road
Transport Corporation, Mumbai

.. Petitioner

Vs.

Mr. Kisan Maruti Gholap

.. Respondent

Mr. G. S. Hegde for the Petitioner.

Mr. A. P. Purohit for the Respondent.

CORAM : A.K. MENON, J.

DATED : 22nd JANUARY, 2019.

P.C. :

1. The challenge in this petition is to the judgment and order dated 14th June, 2018 dismissing the petitioners appeal on the ground of limitation against an order and judgment dated 21st April, 2017 passed by the Controlling Authority under the Payment of Gratuity Act. According to the impugned order there is delay of about 11 months in filing of the appeal and furthermore the appeal was filed without an application seeking condonation of delay. In the circumstances, it is contended by the respondents that in the absence of application for condonation of delay the order was not correct
2. Mr. Hegde on behalf of the petitioner pointed out that the requirement of filing an application was lost sight of and that has happened by oversight but an amount of Rs.1,41,224/- has been already deposited on 6th April, 2018.
3. Heard learned counsel for the parties. In my view this petition can be

disposed of at this stage itself by directing the petitioners to deposit the amounts due inclusive of interest from 1st June, 2008 till date of deposit of the principal sum of Rs.1,41,224/-. Further the petitioners can be permitted to file an application for condonation of delay which the appellate authority will consider in accordance with provisions of law. In view of the fact that no application was filed and considering the fact that the respondent were forced to attend to the proceedings in the court of the first instance and before this court, it will be appropriate that the petitioners are directed to pay costs. Accordingly, I pass following order :

- (I) Subject to compliance with (ii) and (iii) below the impugned order dated 14th June, 2018 is set aside.
- (II) Costs of Rs.20,000/- shall be paid in the name of the respondent within a period of one month from today.
- (III) Amount of interest as directed shall also be deposited within one month from today.
- (IV) Petition disposed of in the above terms.
- (V) Upon compliance with the above parties to appear before the Controlling Authority on 20th February, 2019 who shall the matter afresh.
- (VI) If the costs are not paid or the amount of interest not deposited, the petition shall stand dismissed.

(A.K. MENON,J.)