

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.4153 of 2018

ORDER :

This Civil Revision Petition is filed assailing the Docket Order dt.02.02.2018 passed by the Appellate Authority under Payment of Gratuity Act, 1972 – cum – Appellate Authority under the Andhra Pradesh Shops and Establishments Act, Ranga Reddy District refusing to entertain an appeal preferred by petitioner challenging the order dt.09.09.2016 passed in P.G.No.1 of 2015.

2. Admittedly, appeal under Section 7(7) of the Payment of Gratuity Act, 1972 (**for short, ‘the Act’**) has to be made within (60) days period fixed for filing of an appeal, and the appellant has to produce a certificate of the Controlling Authority to the effect that the appellant has deposited with him an amount equal to the amount of Gratuity required to be deposited under sub-Section (4) of Section 7, or deposit with the Appellate Authority such amount.

3. In the instant case, though petitioner had preferred an appeal on 17.11.2016 by filing the Grounds of Appeal and the stay application, he had not produced certificate of the Controlling Authority that the appellant had deposited with him the amount equal to the amount of Gratuity required to be deposited under sub-Section (4) of Section 7 or made any deposit with the Appellate Authority such amount. He took the plea that he had filed a Review Petition before the Original Authority seeking correction of the name of counsel and also raising

certain contentions on the merits. The said Review appears to have been partly allowed on 18.08.2017, correcting the name of counsel but refusing to modify the earlier order passed on 09.09.2016.

4. The petitioner then re-submitted the appeal on 05.01.2018, but on 02.02.2018 the Appellate Authority under the Act again returned the appeal stating that the appeal which is presented on 05.01.2018 is after the period of (120) days, and therefore it had not filed the same within the prescribed period; and so, it is not admissible.

5. Assailing the same, the present Civil Revision Petition is filed under Article 227 of the Constitution of India.

6. The counsel for petitioner contended that grave illegality and irregularity had been committed by the primary authority under the Act in passing the order dt.09.09.2016 in P.G.No.1 of 2015; that the petitioner, though did not deposit the amount on 17.11.2016, he is now willing to deposit the said amount as is required by the 2nd proviso to sub-Section (7) of Section 7 of the Act; but the appeal has to be treated as having been filed within time.

7. In my considered opinion, since the deposit was not made, as per 2nd proviso to sub-Section (7) of Section 7 of the Act, on 17.11.2016 by petitioner, the very appeal cannot be said to have been validly filed, and when the Appellate Authority had returned the appeal papers on 17.11.2016 the petitioner having represented it only on 02.02.2018, it could not be said to have filed the appeal within the

(60) day period prescribed under sub-Section (7) of Section 7 of the Act and take advantage of the delay in disposal of the Review Petition.

8. I therefore do not find any error of jurisdiction in the order passed by the Appellate Authority under the Act in refusing to entertain the appeal.

9. Accordingly, the Civil Revision Petition fails, and it is dismissed. No order as to costs.

10. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 10.04.2019

Ndr/*

