

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPL No. 71 of 2021

- M/s Hindustan Steelworks Construction Limited Through Its General Manager, Hscl, Nirmanbhawan, Bhilai, District Durg Chhattisgarh 490001,

---- Petitioner

Versus

1. The Controlling Authority Under The Payment Of Gratuity Act, 1972 And Assistant Labour Commissioner (Central), Government Of India, Ministry Of Labour And Employment, D-6, Adarsh Society, Sector-1, Avanti Vihar, Raipur Chhattisgarh. 492006, District : Raipur, Chhattisgarh
2. M/s J.V. Reddy, Prop. Shri J.V. Reddy, Qtr.No. 24/f, Street-11, Sector-2, Bhilai, District Durg Chhattisgarh. 490001, District : Durg, Chhattisgarh
3. Shri Babu Ali Ansari, S/o Shri Naim Ansari, H.No. 168, Klc Zone-2, Sector-li, Khursipar, Bhilai, District Durg Chhattisgarh. 490011, District : Durg, Chhattisgarh
4. Union Of India Service Through The Secretary, Department Of Labour, Shram Shakti Bhavan, New Delhi- 110001., District : New Delhi, Delhi

---- Respondents

For Petitioner	:	Mr. Ranjay De, Advocate along with Mr. Vinod Deshmukh, Advocate
For Respondents No. 1 & 4	:	Mr. Raj Kumar Gupta, Advocate

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

06.12.2021

1. The petitioner has filed this petition against the order dated 19.03.2020 which is communicated to the petitioner on 11-05-2020 Annexure- P/1 passed by Authority under payment of Gratuity Act 1972 by which the Authority has directed the petitioner as well as the contractor jointly or severally to pay a sum of Rs.58,050/-(Fifty eight thousand and fifty)with interest only on account of gratuity to the respondent No.3.
2. The brief fact as projected by the learned counsel for the

petitioner is that the respondent No.2 is the contractor and respondent No.3 Babu Ali Ansari employed with respondent No.2 in the establishment of the petitioner/Hindustan Steelworks Construction Limited.

3. Respondent No.3 has filed an application before the Controlling Authority under the payment of Gratuity Act for issuance of direction, for grant of gratuity. The learned Controlling Authority respondent No.1 has registered the application as Case No.RP-48(40)/2019-ALC. The learned Controlling Authority under the payment of Gratuity Act, herein vide order dated 19.03.2020 has allowed the application and directed the petitioner to pay gratuity amount. By impugned order the Controlling Authority has directed for payment of gratuity to the tune of Rs.58,050/-(Rs. Fifty Eight Thousand Fifty only) alongwith simple interest @ 10% per annum with effect from the date 30.06.2018 to the date on which it is paid to respondent No.3 as well as by respondent No.2 jointly and severally.
4. As per Section 7 of Gratuity Act there is remedy of appeal, Section 7(7) provides that the appeal has to be filed within 60 days from the date of communication of the order and further 60 days delay can be condoned Section 7 sub-section 7 under the payment of Gratuity Act, 1972 is extracted below:-

(7) Any person aggrieved by an order under sub-section (4) may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf:

Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days:

[Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either produces 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), or deposits with the appellate authority such amount.

5. The whole world was undergoing covid pandemic, the litigants are not able to redress their grievances by filing the appeal or other remedies available under the law, therefore, the Hon'ble Supreme Court considering the difficulties faced by litigant as passed the order in reference of cognizance for extension of limitation has passed an order on 23.09.2021. the operative part of the order extracted below:-

“8. Therefore, we dispose of the M. A. No. 665 of 2021 with the following directions:-

I. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15/03/2020 till 02/10/2021 shall stand excluded. Consequently, the balance period of limitation remaining on 15/03/2021, if any, shall become available with effect from 03/10/2021.

II. In cases where the limitatio would have expired during the period between 15.03.2020 till 02.10.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 03.10.2021. In the event the acual balance period of limitation remaining with effect from 03.10.2021, is greater than 90 days, that linger period shall apply.

III. The period from 15.03.2020 till 02.10.2021 shall also stand excluded in computing the periods prescribed under Sections 23(4) and 29A of the arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period (s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

IV. The Government of India shall amend the guidelines for containment zones, to state. “Regulated movement will be allowed for medical emergencies, provision of essential goods and services, and other necessary functions, such as, time bound applications including for legal purposes, and educational and job-related requirements.”

6. Now Coming to the fact that the impugned order dated 19.03.2020 which was communicated by the Controlling Authority to petitioner vide its memo dated 11.05.2020, during undergoing Covid Pandemic, therefore, petitioner is entitled to

get the condonation of delay in filing the appeal from 15.03.2020 till 02.10.2021. The petitioner has preferred this writ petition before this Court on 09.11.2021. The Hon'ble Supreme Court has extended the further period of 90 days for computing the limitation upto 3rd October, 2021, that period expired on 1st January, 2022, therefore, considering the totality of the facts of the case and the fact that if the petitioner files appeal within 45 days from the date of receipt of copy of this order after depositing the amount as directed by learned Controlling Authority, the delay in filing the appeal will not raise before the appellate Authority. It is expected that the appellate authority will decide the case on merits in accordance with law.

7. With this observation, the writ petition(L) is disposed of.

Sd/-

(Narendra Kumar Vyas)
Judge