

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5638 of 2021

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

... .. Petitioner/s

Versus

1. The Union of India through the Ministry of Labour and Employment, New Delhi.
2. The Assistant Labour Commissioner (Central), Patna and Controlling Authority under the payment of Gratuity Act, 1972, 2nd Floor, A- Block, Room No, 17, Mauryalok Complex, Patna.
3. Sri Harendra Singh Son of Late Dharm Lal Singh R/o- 1st Floor, Satya Tara Enclave, Priyadarshi Nagar (DPS More), Bailey Road, P.S.- Rupaspur, District- Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar Pandey, Advocate
For the Respondent/s : Mrs. Kanak Verma, CGC

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 30-11-2022

Heard learned counsels for the parties.

2. In the instant petition, petitioner has prayed for following reliefs:-

"(i) For issuance of writ/writs, order/orders or direction/directions in the nature of Certiorari for setting aside Decision and order dated 02-06-2020 passed in case no. 48/1(31)/2018/ALC-1-PT by Sri Rohit Mani Tiwari, Contrlling Authority under the payment of Gratuity Act, 1972 and Assistant Labour Commissioner (Central), Patna and communicated to the petitioner vide notice dated 02-06/16-09-2020 whereby and whereunder it has been held that respondent no. 3 is entitled to get the



amount of gratuity along with interest as following – Gratuity-10,00,000/-, interest from period 11-10-2012 to 04-08-2014- Rs. 1,83,333/- and further directed the petitioner Bank to pay total amount of Rs. 11,83,333/- within 30 days from the date of receipt of the order, although the respondent no. 3 had already been paid amount of gratuity Rs. 9,08,082/- and interest thereupon Rs. 5,55,578/- i.e. total Rs. 14,63,660/- in terms of Regulation 72(3) of erstwhile Madhya Bihar Gramin Bank (Officers and Employees) Service Regulations, 2010.

(ii) For any other relief/reliefs for which the petitioner may be found entitle in the eye of law and in the facts and circumstances of the case may also be granted in favour of the petitioner."

3. Perusal of the records it is evident that petitioner has not exhausted statutory remedy of appeal before the appellate authority under Payment of Gratuity Act, 1972.

Apex Court in the case of State of *Jammu and Kashmir V. R.K. Zalpuri* reported in *AIR 2016 SC 3006* at para 20 held as under:

“20. Having stated thus, it is useful to refer to a passage from City and Industrial Development Corporation V. Dosu Aardeshir Bhiwandiwalla and Others, wherein this Court while dwelling upon jurisdiction under Article 226 of the Constitution, has expressed thus:-

“The Court while exercising its jurisdiction under Article 226 if duty-bound to consider whether:

(a) adjudication of writ petition involves any complex and



disputed questions of facts and whether they can be satisfactorily resolved;

(b) the petition reveals all material facts;

(c) the petitioner has any alternative or effective remedy for the resolution of the dispute;

(d) person invoking the jurisdiction is guilty of unexplained delay and laches;

(e) ex facie barred by any laws of limitation;

(f) grant of relief is against public policy or barred by any valid law; and host of other factors.”

4. In the light of these facts and circumstances, present petition is not maintainable in not exhausting statutory remedy of appeal before the appellate authority under Section 7 of payment of Gratuity Act.

5. Accordingly, the present petition stands disposed of reserving liberty to the petitioner to invoke remedy of appeal. Appellate authority is hereby directed to take note of Section 14 of Limitation Act for the purpose of condonation of delay, if any.

(P. B. Bajanthri, J)

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