

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 7578 of 2019

***Orissa State Ware Housing
Corporation***

Petitioner

Mr. B.K. Sahoo, Advocate

-versus-

***Gouri Shankar Prasad and
others***

Opposite Parties

Mr. S.K. Samal, AGA

Mr. L. M. Nanda, Advocate

CORAM: JUSTICE V. NARASINGH

**ORDER
18.07.2022**

Order No.

04.

1. This matter is taken up through hybrid mode.
2. Heard Mr. Sahoo, learned counsel for the petitioner-Corporation and learned counsel Mr. Nanda for the Opposite Party No.1 Workman.
3. The petitioner-Corporation has assailed the order passed by the Appellate Authority under the P.G. Act-cum-Joint Labour Commissioner, dated 12.03.2019 by which the Appellate Authority has declined to interfere the order directing the payment of interest on account of delay payment to the tune of Rs.1,13,913/- in terms of the provisions contended in Section 7(3A) for the Payment of Gratuity Act, 1972 (Act). For convenience of ready reference the statutory provision is extracted hereunder;

x x x x x *“Section 7(3A): If the amount of Gratuity payable under Sub-Section (3) is not paid by the employer within the period specified in Sub-Section (3), the employer shall pay, from the date on which the*

gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long term deposits, as that Government may, by notification specify.

Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the controlling Authority for the delayed payment on this ground.” x x x x x

4. Learned counsel for the Corporation submits that the Appellate Authority without appreciating that delay was not intentional but due to unavoidable procedure formalities in getting approval of the government passed the impugned order. It is submitted that the appellate authority acted mechanically in saddling the corporation with interest.

5. Per contra learned counsel for the workman, Mr. Nanda submits that as per the schematic arrangement of the Gratuity Act, the interest as envisaged under Section 7(3A) is a legal consequence and the stand taken by the corporation does not come within the proviso of the said Section which only absolves one from payment of interest.

6. On consideration of materials on record, it is seen that the stand of delay in getting approval from the government was also agitated by the petitioner in the Payment of Gratuity Case No.08 of 2014 earlier instituted. The statutory appellate authority was not inclined to accept the explanation for delay as advanced.

7. On a conspectus of materials on record and taking into account the object for which the Payment of Gratuity Act has been enacted and the statutory nature of the power exercised under Section 7(3A) of the Act, this Court does not find any infirmity in the exercise of appellate power. Hence, declines to interfere with the order passed by the

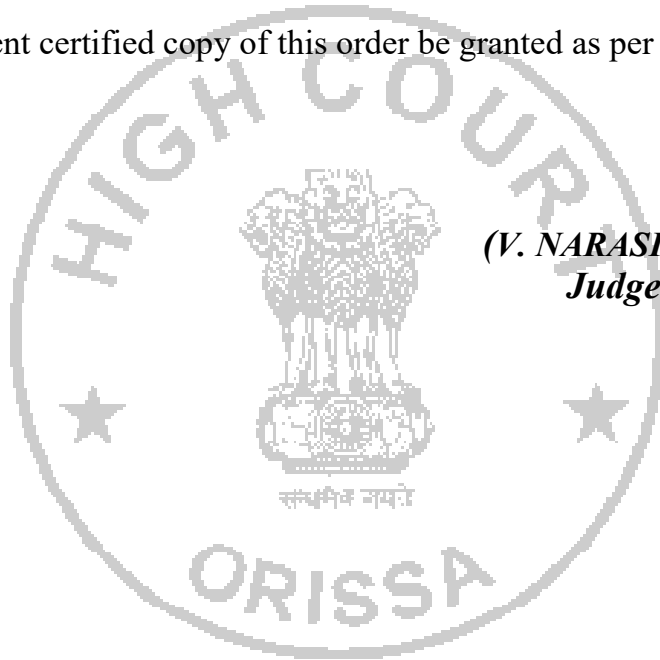
Appellate Authority and the Writ Application accordingly does not merit the consideration of this Court and stands rejected.

8. It is seen that during the pendency of the present Writ Petition in terms of the direction passed by this Court sum of Rs.50,000/- has already been released in favour of the Opposite Party No.1.

9. This Court directs the petitioner-Corporation to disburse the balance amount out of the sum of Rs.1,13,913/- along with accrued interest thereon. The same shall be released in favour of the Opposite Party No.1 within four weeks from the receipt/production of the certified copy of this order.

10. Urgent certified copy of this order be granted as per rules.

Santoshi



(V. NARASINGH)
Judge