

IN THE HIGH COURT OF ORISSA AT CUTTACK
W.A No.351 of 2013

**Orissa State Commercial
Transport Corporation Ltd.**

....

Appellant

Mr. Ramesh Sahoo,
Advocate

-versus-

***Deputy Labour Commissioner, Old
Secretariat, Cuttack and another***

....

Respondents

Mr. A.K. Nanda, AGA
(For Respondent No.1)
Mr. Pramod Kishore
Chand, Advocate
(For Respondent No.2)

**CORAM:
JUSTICE JASWANT SINGH
JUSTICE M.S. RAMAN**

ORDER (Oral)
14.02.2022

Order No.

02. 1. This matter is taken up by virtual/physical mode.
2. The Orissa State Commercial Transport Corporation Ltd. (OSCTC) is before this Court in writ appeal challenging the order dated 25.06.2013 of the learned Single Judge passed in W.P (C) No. 2149 of 2006 whereby, the writ petition came to be dismissed.
3. The Petitioner came up by way of writ petition challenging the order dated 23.12.2005 passed by the Appellate Authority under

P.T.O.

payment of Gratuity Act-Cum-Deputy Labour Commission, Cuttack, in P.G. (Appeal) No. 05 of 2005 which was not admitted as statutory deposit required under Section 7 (7) of the Payment of Gratuity Act, 1972 being not made.

4. From bare reading of Section 7(7) of the Payment of Gratuity Act, 1972, it is apparent that the Appellant is required to produce a certificate of the Controlling Authority to the effect that, the appellant had deposited with him an amount equal to the amount of gratuity or deposits with the Appellate Authority such amount. In absence of fulfillment of such requirement, the appeal cannot be admitted.

5. It is well settled that right of appeal can be hedged with certain conditions and in absence of provision for waiver of condition, the appeal cannot be admitted without fulfillment of the prescribed conditions.

6. We upon perusal of order dated 25.06.2013 rendered in W.P.(C) No. 2149 of 2006, find the order of the learned Single Judge flawless.

7. During the course of hearing, the Appellant further alleged that the Appellate Authority while dismissing the appeal U/s 7 of the Payment of Gratuity Act, 1972 has considered the merit of the matter also. Such observation does not bear any significance, in view of the fact that the appeal itself was not entertained by the Appellate Authority on the ground of non-fulfillment of mandatory conditions stipulated in sub-section (7) of Section 7 of the Payment

of Gratuity Act, 1972. Therefore, any observation on merits would cause no prejudice to the Appellant/Petitioner.

8. In view of the above, the writ appeal is dismissed.

(Jaswant Singh)
Judge

(M.S.Raman)
Judge

Laxmikant

February 14th, 2022
Cuttack

