

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 10093 OF 2019

Nitin Bhanudas Jawale

***..... Petitioner
Mr. D. Biswal, Advocate***

-versus-

***Divisional Labour Commissioner-cum-Controlling
Authority & Another***

***..... Opposite Parties
Mr. M. Mishra, ASC.
Mr. P.K. Nayak, Advocate for OP-2***

**CORAM:
JUSTICE V. NARASINGH**

**ORDER
15.07.2022**

**Order No.
07.**

1. This matter is taken up through Hybrid Mode.
2. None appears for the petitioner when the matter is called.
3. Mr. P.K. Nayak, learned Counsel for the Opposite Party No.2 is present.
4. Learned counsel for the Opposite Party No.2 brings to the notice of the Court the Provisions contained in Section-7(7) of the payment of Gratuity Act, 1972 read with rule-17 of the Orissa Payment of Gratuity Rules, 1974, which is quoted hereunder;

“Section-7(7).... Any person aggrieved by an order under sub-section(4) may, within 60 days from the date of the

receipt of the order, prefer an appeal to the appropriate Govt. or such other authority as may be specified by the appropriate Govt. in this behalf. Xxx xxx xxxx

Provided that no appeal by an employer shall be admitted unless at that 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.”

Which provides for statutory remedy of appeal.

5. On perusal of the writ petition, it is seen that the petitioner as alleged violation of natural justice in as much as it is stated that adequate opportunity was not given.

6. Be that as it may such grievance of the petitioner can be redressed by the Appellate Authority.

7. Taking note of the same, since the petitioner has effective alternative remedy, this Court is not inclined to entertain this application and the same accordingly stands disposed of giving liberty to the petitioner to approach the statutory Appellate Authority within a period of 60 days from today.

8. In the event, such an appeal is filed within the period of 60 days from their say, the delay in filing the same shall be condoned and the Appellate Authority shall hear and dispose of the matter on merit.

9. Till the period of 60 days from today, no coercive action shall be taken against the petitioner.
10. The Writ Application accordingly stands disposed of.
11. Urgent certified copy of this order be granted as per rule.

Balaram

*(V.Narasingh)
Judge*

