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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8701/2022

PUBLIC WORKS DEPARTMENT

..... Petitioner

Through: Ms. Avni Singh, Advocate for
respondent No.1.

versus

RAM PAL & ANR.

..... Respondents

Through: Ms. Richa Sharma, Advocate for
respondent No.1.
Mr. Ajay Jain with Ms. Vishakha
Singh, Ms. Cherry Agarwal and
Mr. Keshav Ahuja, Advocates for
respondent No.2.

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*Date of Decision: 31st May, 2022***CORAM:****HON'BLE MR. JUSTICE DINESH KUMAR SHARMA****J U D G M E N T****DINESH KUMAR SHARMA, J. (Oral)****CM APPL.26226/2022 (exemption)**

Exemption allowed subject to all just exceptions.

W.P.(C) 8701/2022 & CM APPL.26227/2022 (stay)

1. Present petition has been filed seeking a writ of mandamus or any other appropriate writ(s) or order(s) to quash the impugned order dated 06.12.2021, passed by the respondent No.2 herein allowing the claim application submitted by respondent No.1 and directing the petitioner herein to grant 100% gratuity for services rendered on the Muster-roll alongwith interest at 10% per annum in direct contravention of the rules on the subject.



2. At the outset, an objection has been taken by learned counsel for the respondent, who appears on advance notice that the petitioner should first have filed an appeal before the Appellate Authority under Section 7(7) of the Payment of Gratuity Act, 1972. It has been stated that earlier also in similar matters the petitions filed were dismissed bearing WP(C) 4912/2022 titled *Public Works Department vs. Nanji And Anr.*, WP(C) 5971/2022 titled *The Directorate General of Works, CPWD vs. Gajraj Singh & Ors.*, WP(C) 5998/2022 titled *The Directorate General of Works, CPWD vs. Santokh Singh & Ors.*, WP(C) 6001/2022 titled *The Directorate General of Works, CPWD vs. Prakash Chand & Ors.*, WP(C) 6013/2022 titled *The Directorate General of Works, CPWD vs. Shashi Devi & Ors.*, WP(C) 6015/2022 titled *The Directorate General of Works, CPWD vs. Ram Kishan & Ors.* and WP(C) 6028/2022 titled *The Directorate General of Works, CPWD vs. Babu Lal & Ors.*

3. Learned counsel for the respondents submits that in view of the decision of this Court in WP(C) 4900/2022 titled *Public Work Department vs. Sh. Budhi Ram & Anr.*, the petition is liable to be relegated to the Appellate Court for filing of an appeal.

4. Learned counsel for the petitioner submits that for parity of reasons similar directions regarding condonation of delay may also be passed to enable the petitioner to approach the Appellate Authority. Learned counsel for the respondent has agreed to the submissions provided that appropriate costs may be imposed upon the petitioner.

5. Limitation for filing an appeal before the Appellate Authority is 60



days and the Appellate Authority can condone the delay for further 60 days. In the present case, the order is dated 06.12.2021, so there is a delay of little more than 3 months in filing of the petition. Taking into account the totality of the facts and circumstances of the case and the order passed by the Supreme Court condoning the delay during the COVID period, the delay is condoned. Petitioner may file an appeal within four weeks. If such an appeal is filed within four weeks, the Appellate Authority shall entertain and decide the same in accordance with law. It is made clear that if the appeal is not filed within four weeks i.e. by 30th June, the same shall not be entertained and the respondent No.1 shall be at liberty to approach the *Tehsildar* for continuance of recovery proceedings.

6. Till such time the appeal is heard, the recovery proceedings shall remain stayed. Considering the fact that the challenge in this petition is to an order passed in favour of the respondent No.1/workman and there being a delay of taking the appropriate proceedings, this Court deem it appropriate to dispose of this petition with costs of Rs.25,000/- to be paid by the respondent No.1/workman on the first date of hearing before the Appellate Court. Learned counsel for the respondent No.1 vehemently opposes the imposition of penalty of Rs.25,000/-. However, this Court considers that in totality of facts and circumstances of the case, it is just and fair to impose the costs.

7. In view of the above, the present petition along with pending application stands disposed of.

DINESH KUMAR SHARMA, J

May 31, 2022/st

W.P.(C) 8701/2022

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