

Neutral Citation Number 2022/DHC/004659

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

+ **W.P.(C) 15230/2022, CM APPL. 47155/2022**

PUBLIC WORKS DEPARTMENT

..... Petitioner

Through: **Mr. Dhruv Rohtagi, Adv. (through VC)**

Versus

SMT. CHANDER KALA & ANR.

..... Respondents

Through: **Mr. Manoj Joshi, Adv. (through VC)**

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Date of Decision: 3rd November, 2022

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

CM APPL. 47156/2022 (Exemptions)

Exemption is allowed subject to all just exceptions.

W.P.(C) 15230/2022

1. The present writ petition has been filed challenging the order dated 9th December, 2021 passed by the learned Controlling Authority under the Payment of Gratuity Act, 1972 vide which the claim application of respondent No.1 has been allowed and petitioner has been directed to pay Rs.75,835/-as balance gratuity amount along with simple interest

@10% per annum from the date of superannuation of workman i.e. 31st July, 2019.

2. Learned counsel for the petitioner submits that the learned Controlling Authority has fallen into an error by making the order for payment of gratuity even for the period when the respondent workman was only on a muster roll. Learned counsel for the petitioner further submits that the matter could not be challenged before the Appellate Authority within the period of limitation. It has been further submitted that the Appellate Authority is not empowered to condone the delay beyond the total period of 120 days from the date of receipt of the order.
3. Issue notice.
4. Mr. Manoj Joshi learned counsel accepts notice on behalf of the respondent.
5. Both the learned counsels submit that in identical facts, matters have been relegated back to the Appellate Authority to decide the same in accordance with the law.
6. In view of the submissions made, the petitioner-department is granted liberty to file an appeal before the Appellate Authority in accordance with law within the period of four weeks. The delay in filing the appeal is condoned.
7. The Appellate Authority shall entertain the appeal if filed on or before 3rd December, 2022 and shall decide the same in accordance with the law. Till 3rd December, 2022, the recovery proceeding shall remain

stayed. In case, the petitioner fails to file the appeal on or before 3rd December, 2022 before the Appellate Authority in accordance with law, the respondent shall be at liberty to initiate recovery proceeding against the petitioner-department.

8. Learned counsel for the respondent-workman has pressed for litigation expenses. Following the precedents, the petitioner-department shall pay a sum of Rs.25,000/- as litigation expenses to the widow of the deceased employee within four weeks.
9. With these observations, the present petition along with pending application stands disposed of.

DINESH KUMAR SHARMA, J

NOVEMBER 3, 2022

Pallavi