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

+ **W.P.(C) 15409/2022**

PUBLIC WORKS DEPARTMENT

..... Petitioner

Through: **Mr. Bharat Singh Sisodia, Advocate.**

versus

SMT. BHAGWATI & ANR.

..... Respondents

Through: **Mr. Manoj Joshi, Advocate for
respondent No.1.
Ms. Rachita Garg, Adv for respondent
No.2.**

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Date of Decision: 10th 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. 47875/2022, CM APPL. 47876/2022 CM APPL. 47877/2022
CM APPL. 47878/2022 (exemptions)**

Exemptions allowed subject to all just exceptions.

W.P.(C) 15409/2022 & CM APPL.47874/2022 (stay)

1. The present writ petition has been filed challenging the order dated 06th 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

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Rs.2,26,176/- with simple interest @ 10% per annum in favour of respondent No.1.

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, Advocate, who appears through video conferencing, accepts notice on behalf of respondent No.1. Ms. Rachita Garg, Advocate, who appears through video conferencing, accepts notice on behalf of respondent No.2.

5. Learned counsel for the parties 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 11th December, 2022 and shall decide the same in accordance with the law. Till 11th December, 2022, the recovery proceeding shall remain stayed. In case, the petitioner fails to file the appeal on or before 11th 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 No.1 has pressed for litigation expenses. Following the precedents, the petitioner-department shall pay a sum of Rs.25,000/- as litigation expenses to the respondent No.1 within four weeks.

9. With these observations, the present petition along with pending application stands disposed of.

DINESH KUMAR SHARMA, J

NOVEMBER 10, 2022
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