

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1204 OF 2020

The Maharashtra State Road Transport Corporation,
Thane Div. and Anr. ...Petitioners
Versus
Kisan Maruti Gholap ...Respondent

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Mr. Nitesh V. Bhutekar a/w Mr. Aniket Nangare, for Petitioners.
Mr. Saurav Katkar i/by Mr. Swarup D. Patil for Respondent.

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**CORAM : SANDEEP V. MARNE, J.
DATE : SEPTEMBER 27, 2023.**

P.C.:

1. By this Petition, the Petitioners-State Road Transport Corporation has challenged order dated 16 December 2019 passed by the Industrial Court, Thane rejecting the application for condonation of delay.

2. The Respondent-Employee had filed Application No.40/2011 before the Controlling Officer complaining about non payment of gratuity in respect of his daily wage service between 17 August 1972 to 1 May 1976. The Controlling Officer allowed the application by order dated 21 April 2017 and directed the Petitioners-Corporation to pay difference of gratuity amount of Rs.1,41,244/- along with interest at the rate of 9% per annum with effect from 1 June 2008.

3. Petitioners-Corporation filed an Appeal before the Appellate Authority which came to be rejected by the Appellate Authority by order dated 14 June 2018 refusing to condone the delay in filing of the Appeal. Petitioners-Corporation challenged the order of the Appellate Authority before this Court by filing Writ Petition No.11815 of 2018, which came to be allowed by passing following order:

- "(I) Subject to compliance with (ii) and (iii) below the impugned order dated 14th June, 2018 is set aside.
- (II) Costs of Rs.20,000/- shall be paid in the name of the respondent within a period of one month from today.
- (III) Amount of interest as directed shall also be deposited within one month from today.
- (IV) Petition disposed of in the above terms.
- (V) Upon compliance with the above parties to appear before the Controlling Authority on 20th February, 2019 who shall the matter afresh.
- (VI) If the costs are not paid or the amount of interest not deposited, the petition shall stand dismissed."

4. It appears that in pursuance of orders passed by this Court on 22 January 2019, the amount of cost of Rs.20,000/- have been paid to Respondent. So far as the deposit of amount of interest is concerned, though the interest was deposited there was some mistake in calculating the amount of interest and balance amount of Rs.12,177/- towards interest remained to be deposited. The Petitioners-Corporation therefore filed Civil Application

No.1594 of 2019 which came to be disposed of by order dated 5 August 2019 extending the period for deposit the said balance amount of Rs.12,177/- within two weeks. The period of two weeks was to come to an end on 19 August 2019. It appears that on 19 August 2019 Petitioners-Corporation deposited cheque for Rs.12,177/- with the Registry of the Appellate Authority. It therefore appears that the Petitioner-Corporation has complied with the conditions stipulated by this Court in orders dated 22 January 2019 and 5 August 2019.

5. The Industrial Court has criticised the Petitioner for depositing the Cheque of Rs.12,177/- on the last day when the stipulated time was to expire. Once Petitioner was permitted by this Court to deposit Rs.12,177/- by 19 August 2019 it is beyond comprehension as to why Petitioner can be faulted for deposit of Cheque of that amount on 19 August 2019. When the Registry of the Industrial Court deposits the cheque for encashing the same is immaterial. The approach of the Industrial Court in rejecting Petitioner's application is thus flawed. Its approach has unnecessarily driven the Petitioner to this Court. The Industrial Court has thus erroneously proceeded to reject the application for condonation of delay. The order dated 16 December 2019 passed by the Industrial Court is therefore set aside and the Appellate

Authority is directed to decide the Appeal on merits in a time bound manner within six months from today.

6. With the above directions, the Writ Petition is disposed of.

(SANDEEP V. MARNE, J.)