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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-20698-2022

Date of decision : 08.05.2023

Kamla Devi

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Mohit Garg, Advocate
for the petitioner.

MANOJ BAJAJ, J.

By means of this writ petition filed under Article 226 Constitution of India petitioner has prayed for issuance of a writ in the nature of certiorari for setting aside the order dated 06.06.2022 (Annexure P-5) passed by the appellate authority, whereby the order dated 06.08.2019 accepting petitioner's claim under Section 7 Payment of Gratuity Act, 1972 was allowed and the case has been remanded back before the Controlling Authority, Hisar.

Learned counsel for the petitioner has argued that vide order dated 06.08.2019, Controlling Authority under the Payment of Gratuity Act, 1972 determined the claim of the petitioner and directed the respondents to make the payment of gratuity amount to the petitioner along with the interest and this *ex parte* decision was challenged after long delay by filing an appeal on 24.01.2022, wherein the application for condonation of delay has been

accepted without there being any sufficient explanation behind each and every days' delay. Learned counsel refers to the pleadings in the application filed for condonation of delay and pointed out that the knowledge of the impugned order dated 06.08.2019 was acquired by appellant on 19.12.2019, whereas the appeal was filed on 24.01.2022, therefore, the explanation could not have been accepted. He submits that on this sole ground the impugned order passed by the appellate authority remanding the case back before the controlling authority is not sustainable and deserves to be set aside.

Upon hearing learned counsel and considering the material on record, it comes out that as per the averments in the application for condonation of delay, it was pleaded that the respondent (petitioner herein) had filed the execution of the order dated 06.08.2019, wherein the respondents appeared on 19.12.2019. Thereafter, it was noticed that the employee, who was pursuing the original case stood transferred and the case file was located on 20.03.2020, and at that stage, there was a complete lock-down because of breakout of Pandemic COVID-19. Thereafter, the appeal was filed on 24.01.2022 relying upon the decision dated 08.03.2021 passed by the Hon'ble Supreme Court in Suo Moto Writ Petition (Civil) No.3-2020. Merely because, the appellate authority while condoning the delay has not given its reasons for delay while accepting the application, but that alone would not be a ground to set aside the order as the background of the case and averments in the application do make out a case for condonation of delay.

During the course of hearing, it is also not disputed by learned counsel that after remand of the case vide impugned order dated 06.06.2022, the petitioner is participating in the proceedings before the controlling

authority.

Thus, considering the above reasons, this Court is not inclined to exercise the extra ordinary writ jurisdiction under Article 226 Constitution of India.

Petition is dismissed.

(MANOJ BAJAJ)
JUDGE

08.05.2023
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No