

\$~

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 10.05.2023

+ W.P.(C) 6134/2023 & CM APPL. 24173/2023 -Stay.
PEC LIMITED

..... Petitioner

Through: Mr. Krish Kalra and Mr. Anuj
Mirdha, Advs.

versus

SH FATEH CHAND AND OTHER

..... Respondent

Through: Ms. Ritu Jain, Adv. for Workman/R-
1.
Mr. Hemant Yadav, SPC with Mr.
Abhishek Gupta, G.P. for Union of
India/R-2 & 3.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

CM APPL. 24174/2023 -Ex.

1. The TCR be requisitioned and digitized before the next date.
2. The applications stand disposed of.

W.P.(C) 6134/2023 & CM APPL. 24173/2023 -Stay.

3. The present petition preferred by the employer seeks to assail the order dated 21.04.2023 passed by the learned Controlling Authority under the Payment of Gratuity Act, 1972. Vide the impugned award, the learned Authority has while declining the petitioner's request for

deferring hearing of the respondent's claim till the disposal of the petitioner's Appeal No. 5501/2022, directed the petitioner to cross-examine the respondent's/applicant's witnesses on the next date.

4. The only submission of learned counsel for the petitioner is that once the petitioner has already filed an appeal assailing an order passed by the learned Controlling Authority in a similar claim petition which appeal being 5501/2022 is pending adjudication before the learned Appellate Authority/respondent no. 3, no useful purpose would be served in proceeding with the claim petition. He contends that in order to avoid multiplicity of litigation, the learned Controlling Authority ought to have awaited the outcome of the petitioner's pending appeal.
5. Issue notice. Ms. Ritu Jain and Mr. Hemant Kumar Yadav accept notice on behalf of respondent no. 1 and respondent nos. 2 & 3, respectively. Learned counsel for the respondent no. 1/workman fairly submits that it will be in the interest of justice of both sides that the matter is taken up for adjudication after a decision on the petitioner's pending appeal being Appeal No. 5501/2022. She, however, submits that the learned Appellate Authority be directed to dispose of the aforesaid appeal in a time bound manner and the respondent no. 1 be also paid some litigation expenses.
6. Having considered the submissions of the parties, I find merit in the submission of learned counsel for respondent no. 1. Accordingly, while setting aside the impugned order dated 21.04.2023 with the consent of the parties, the learned Controlling Authority is directed to defer hearing on the respondent no. 1's claim petition till disposal of the petitioner's aforesaid Appeal No. 5501/2022, pending before the

learned Appellate Authority under the Payment of Gratuity Act, 1972. Simultaneously, the learned Appellate Authority is directed to decide the aforesaid appeal within a period of four months. This would, however, be subject to the respondents cooperating with the learned Appellate Authority.

7. While disposing off the appeal in the aforesaid terms, the petitioner is directed to pay litigation expenses of Rs.15,000/- to the respondent no. 1. The litigation expenses would be paid within a period of four weeks from today.

(REKHA PALLI)
JUDGE

MAY 10, 2023

acm