

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6035 of 2017

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The General Manager Region , Food Corporation Of India, Regional Office,
Arunachal Building, Exhibition Road, Patna- 800001

... .. Petitioner/s

Versus

1. The Union Of India through the Secretary, Ministry of Labour and Employment, New Delhi.
2. The Regional Labour Commissioner Central, Patna-cum- Appellate Authority under the Payment of Gratuity Act, 1972, Maurya Lok Complex, 2nd Floor, Patna- 800001
3. The Assistant Labour Commission Central, Patna-cum- Controlling Authority under the Payment of Gratuity Act, 1972, Mauryalok Complex, 2nd Floor, Patna-800001
- 4.1. Smt. Phuljhari Devi, Widow of late Shri Sheo Prasad Ram, Resident of Village- Kurjee, Balupar Shipa Bharti, P.O. Sadaquat Ashram, District- Pin 800 010
- 4.2. Kumari Reeta , D/o of late Shri Sheo Prasad Ram, Resident of Village- Kurjee, Balupar Shipa Bharti, P.O. Sadaquat Ashram, District- Pin 800 010
- 4.3. Sri Kaushal Kishore Son of late Shri Sheo Prasad Ram, Resident of Village- Kurjee, Balupar Shipa Bharti, P.O. Sadaquat Ashram, District- Pin 800 010
- 4.4. Kumari Rajnikant , D/o of late Shri Sheo Prasad Ram, Resident of Village- Kurjee, Balupar Shipa Bharti, P.O. Sadaquat Ashram, District- Pin 800 010
- 4.5. Kumari Reenki , D/o late Shri Sheo Prasad Ram, Resident of Village- Kurjee, Balupar Shipa Bharti, P.O. Sadaquat Ashram, District- Pin 800 010
- 4.6. Kumari Anjulata, D/o late Shri Sheo Prasad Ram, Resident of Village- Kurjee, Balupar Shipa Bharti, P.O. Sadaquat Ashram, District- Pin 800 010

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. P.K. Verma, Sr Advocate Dr.Mankeshwar Tiwari, Advocate
For the Respondent/s	:	Mr. Chandra Mohan, Adv.
For Union of India	:	Mr. Suraj Narain Yadav, Adv.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

26 08-02-2024

The present writ petition has been filed for the

following reliefs:-

- i. For quashing the order dated
27/28.05.2015 (Annexure-9) passed in



Appeal Case No. 36/25/2015-Appeal/RLC by the Regional Labour Commissioner (Central), Patna under the payment of Gratuity Act, 1972 whereby the appeal, filed by the management of the Food Corporation of India (for short, 'the FCI') under Section 7(7) of the said Act read with Rule 18 of the Payment of Gratuity (Central) Rules, 1972 against the order dated 03/06.12.2013 (Annexure-5) passed by the Assistant Labour Commissioner-cum-Controlling Authority, has been dismissed.

ii. For quashing the order dated 03/06.12.2013 (Annexure-5) passed by the Assistant Labour Commissioner-cum-Controlling Authority in file No. 48/ 18/ 2013/ALC. II whereby gratuity plus interest has been allowed to the Respondent No. 4 (ex-employee) amounting to Rs. 11,15,000/-.

iii. For any other relief or reliefs, to which the petitioner is found to be entitled to under law, be given to it.

2. Learned counsel for the petitioner has stated that the order passed by the Regional Labour Commissioner (Central), Patna under the Payment of Gratuity Act in Appeal Case No. 36/25/2015-APPEAL/RLC dated 27/28.05.2015 (Annexure-9) is liable to be set aside as the same is contrary to the provisions of Act, facts of the case and the well settled principles of law. Learned counsel has stated that the Regional Labour Commissioner has passed the impugned order without verifying the record and dismissed the statutory appeal filed by



the petitioner on two grounds, one that the appellant management has not complied with the provisions of Sub-section 7 of Section 7 of the Payment of Gratuity Act and secondly that the appeal filed by the appellant/management is unsigned and time-barred. Learned counsel has drawn the attention of the court to the documents filed by the petitioner herein along with the appeal, more particularly, Annexure-14 & Annexure-15 filed along with supplementary affidavit. Learned counsel has stated that the order of the Controlling authority was Dated 03.12.2013 and the Statutory Appeal was filed on 30.01.2014 along with the Demand Draft of Rs. 11,15,000/- bearing Draft No. 527449 Dated 29.01.2014, in compliance of Section 7(7) of the Payment of Gratuity Act and Rule 18 of the Payment of Gratuity (Central) Rules, 1972. Further, learned counsel has drawn attention of the Court to the letter written by the authority concerned (Annexure-14) Dated 14.02.2014 which clearly demonstrates that the appellate authority has initially taken two grounds for returning the Appeal, one that the General Manager has not signed and that the Appeal is filed by the Area Manager contrary to the provisions of the Act, second that the certified copy of the judgment along with the appeal has not been filed. Learned counsel has drawn attention of the Court to



the letter dated 21.02.2014 issued by the Food Corporation of India whereby the Area Manager was authorized to file the appeal and Annexure-15A which discloses that the certified copy of the order was also filed. Therefore, the dismissal of the appeal filed by the petitioner herein on the ground that the same is time barred and there is no compliance of sub-section 7 of Section 7 read with Rule 18 of the Payment of Gratuity Act is without any substance and the same is liable to be set aside.

3. Learned counsel for the Respondent No. 4 (deceased employee represented by his legal heirs) has stated that though the Interlocutory Application for substitution of Respondent No. 4 with the list of legal representatives has been filed, as a matter of fact, Respondent No. 4 died leaving behind only (1) Smt. Phuljhari Dev, (2) Kumari Reeta, (3) Sri Kaushal Kishore and (4) Kumari Reenki as his legal representatives. That insofar as the persons at Sl. (iv) Kumari Rajnikant and (vi) Kumari Anjulata of the cause title are concerned, they are not the legal heirs of the deceased employee and have nothing to do with the present case. Learned counsel has stated that due to the death of the employee, the legal heirs are not in a position to assist this Hon'ble Court and as they do not have any information with regard to particulars of the case except the



material supplied by the petitioner herein. However, learned counsel has fairly stated that based on the supplementary affidavit and the documents filed along with it, the impugned order passed by the Regional Labour Commissioner (Central), Patna is liable to be set aside and has prayed that the matter may be remanded back to the appellate authority for passing orders afresh on merits duly putting all the parties on notice and giving them an opportunity of hearing.

4. Having regard to the above mentioned facts and circumstances, the fact that the appeal filed by the petitioner herein is not time barred and that the petitioner has complied with sub-section 7 of Section 7 read with Rule 18 of the Payment of Gratuity Act as amount of Rs. 11,15,000/- has already been paid through Demand Draft no. 527449 dated 29.01.2014, the reason given by the appellate authority concerned for dismissing the appeal is contrary to the record and well settled principles of law.

5. A perusal of the appellate order, the documents filed by the petitioner reveal that the appellate authority has passed the order without verifying the record properly, therefore, the impugned order is set aside and the matter remanded back to the appellate authority concerned for passing



orders afresh duly taking into consideration the grounds of appeal filed by the petitioner herein.

6. It is needless to observe that before passing any order, the Respondents No. 4 (i), 4(ii), 4(iii) and 4(v), namely, (1) Smt. Phuljhari Dev, (2) Kumari Reeta, (3) Sri Kaushal Kishore and (4) Kumari Reenki shall be put on notice and given an opportunity of hearing. The registry is directed to delete the names of Kumari Rajnikant and Kumari Anjulata from array of the respondents.

7. The appellate authority shall endeavour to dispose of the appeal as expeditiously as possible preferably within a period of four months from the date of receipt of this order.

8. With the above direction, the writ petition stands allowed to the extent indicated above. However without any costs.

(A. Abhishek Reddy , J)

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