



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

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CWP-2844-2024**Date of decision: 07.08.2024****M/S HEMERA INDIA PVT. LTD.****...PETITIONER****Vs.****DAVENDER KUMAR AND OTHERS****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. Ambanshu Sahni, Advocate
for the petitioner.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of Award dated 06.12.2022 (Annexure P-1) passed by Controlling Authority under the Payment of Gratuity Act, 1972 and order dated 04.12.2023 (Annexure P-2) passed by the Appellate Authority.

2. The Controlling Authority passed impugned Award on 06.12.2022. As per petitioner, intimation of order passed by Controlling Authority was received on 14.06.2023 and appeal came to be filed on 17.08.2023. The petitioner from its counsel had received intimation of order dated 06.12.2022 and certified copy was received on 19.07.2023. The appeal was filed on 17.08.2023. The Appellate Authority has dismissed appeal on the sole ground that delay beyond 60 days cannot be condoned.

3. Learned counsel for the petitioner submits that Appellate Authority cannot condone delay beyond 60 days, however, this Court in exercise of power under Article 226 of the Constitution of India can condone delay and direct the Appellate Authority to pass order on merits.



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4. There is no dispute to the effect that as per Section 7 of Payment of Gratuity Act, appeal can be filed within 60 days and Appellate Authority can condone delay of maximum 60 days. The delay on the part of petitioner was much more than 60 days, thus, Appellate Authority could not condone the delay.

5. The petitioner has not advanced any exceptional and compelling reason for invoking writ jurisdiction of this Court. Supreme Court in '*Singh Enterprises Vs. Commissioner of Central Excise, Jamshedpur and others (2008) 3 SCC 70*' and '*Assistant Commissioner (CT) LTU, Kakinada and ors. Vs. M/s Glaxo Smith Kline Consumer Health Care Limited (2020) 19 SCC 681*' has clearly held that delay cannot be condoned. The petitioner has failed to make out extra-ordinary or exceptional case to invoke the writ jurisdiction of this Court.

6. Dismissed.

07.08.2024
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[JAGMOHAN BANSAL]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No