

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18648 of 2023

Sahara Credit Cooperative Society Ltd. through its Managing Director, Sahara
India Bhawan, 1. Kapoorthala Complex, Lucknow-226024

... Petitioner

Versus

1. Sunil Kumar son of Late Dudheshwar Sharma, Magistrate Colony, Road No.- 4, Near Sundar Vatika, Ashiana, Patna 800025
2. The Controlling Authority (under Payment of Gratuity Act, 1972) Assistant Labour Commissioner (Central), 2nd Floor, A- Block ,Mourya Lok Complex, Patna- 800001
3. Dy. Chief Labour Commissioner (Central), A Block, 2nd Floor, Mourya Lok Complex, Patna- 800001
4. The District Commissioner/Magistrate, Room No 49, Collectorate Building, Raja Nawab Ali Marg, Kaiserbagh, Lucknow- 226001. ... Respondents

Appearance :

For the Petitioner	:	M/sAkash Kumar Mishra & Kundan Kumar, Adv.
For Respondent No. 1	:	Ms Ananya Shivani, Adv.
For Respondents 2&3	:	Mr.Savita Bajaj, CGC

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

8 07-08-2025 Heard the parties.

2. The present writ petition has been filed for the following relief(s) :

i. To quash and cancel the Award notice dated 04.05.2022 passed by Respondent No. 2/Controlling Authority under the Payment of Gratuity Act, 1972 and Assistant Labour Commissioner (Central), Patna, in Case No.- 48/1(27)/2020-ALC-PT by which the said respondent No.2 has directed the petitioner to pay Rs. 7,61,483/- along with simple interest @ 10% (later on amended as 5%) per annum from the date it became payable, as gratuity to the applicant/Respondent no.-1. The said amount has



been computed not only on basic salary of the respondent No. 1 but also on special allowances, which do not fall within the scope of 'basic wages' as defined under the said Act and also for the period when the said applicant was not employed with the petitioner firm:

ii. To quash and cancel the letter dated 10.10.2023 issued by the Dy. Chief Labour Commissioner (Central), Patna by which the memo of appeal had been returned to the petitioner,

iii. To quash and cancel the demand notice issued by the Sub-Divisional Magistrate / Tehsildar (Sadar), Lucknow, in pursuance of the Recovery Certificate issued by respondent No. 2.

iv. To issue other appropriate writ(s), direction(s), order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

2. Learned counsel appearing on behalf of the petitioner has stated that as against the order passed by the Controlling Authority under the Payment of Gratuity Act, 1972, in Case No. 48/1(27)/2020-ALC-PT (Annexure P/3) dated 04.05.2022 the petitioner has filed statutory appeal before the Appellate Authority under the Payment of Gratuity Act, 1972, with the condone delay petition. Learned counsel has stated that the petitioner has deposited an amount of Rs.7,61,483/- for the



purpose of filing the statutory appeal. Further it is stated that the Appellate Authority without going into the merits of the condone delay petition has simply rejected the appeal on the ground of delay. Learned counsel has therefore prayed this Hon'ble Court to set aside the impugned order and remand back the matter to the Appellate Authority for fresh consideration.

3. Per contra, the learned counsel appearing on behalf of the Respondent No. 1 has vehemently opposed the very maintainability of the present Writ Petition. Learned counsel has stated that though the order was passed on 04.05.2022 the petitioner had approached the Appellate Authority with the delay of more than 18 months. Further learned counsel has stated that the affidavit filed in support of the condone delay petition does not have any valid reasons for condoning the delay. Learned counsel has therefore prayed this Hon'ble Court to dismiss the present Writ Petition.

4. Admittedly, in the present case the petitioner has filed the statutory appeal along with the condone delay petition before the Appellate Authority. A perusal of the Appellate Authority's order reveals that the authority except stating that the appeal is filed after lapse of more than one year and the same is time barred has not stated anything with regard to the condone delay application filed by the petitioner. This Court as well as the Hon'ble Supreme Court in catena of decisions has



time and again held that the quasi judicial authority or the statutory authority are obligated to pass orders on any application by giving reasons for either allowing or rejecting the said application. This Court as well as the Apex Court, on number of occasions, have held that any authority/Court/quasi judicial authority have to necessarily give reasoning in the order passed by them. Unless reasoning is given in the order, neither the party nor Courts before whom the order is challenged will be in a position to appreciate as to what has weighed with the said authority either for dismissing or allowing the application of the party. Though the quasi judicial or administrative authority are not obligated to give a lengthy or elaborate reasoning as in the case of Judicial order, yet they are expected to give a reasoned order which should be precise, concisely setting out the reason for allowing or dismissing the contention/application as the case may be.

5. In Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota vs. Shukla and Brothers, reported in **(2010) 4 SCC, 785**, the Hon'ble Supreme Court has held as under:

“..... while exercising the power of judicial review on administrative action and more particularly the judgment of courts in appeal before the higher court, providing of reasons can never be dispensed with. The doctrine of audi alteram partem has three basic



essentials. Firstly, a person against whom an order is required to be passed or whose rights are likely to be affected adversely must be granted an opportunity of being heard Secondly, the authority concerned should provide a fair and transparent procedure and lastly, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order.....

..... A litigant who approaches the court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer Reasons are the soul of orders Non-recording of reasons could lead to dual infirmities; Firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principles are not only applicable to administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements. The orders of the court must reflect what weighed with the court in granting or declining the relief claimed by the applicant."

6. Having regard to the above, the impugned order dated 04.05.2022 is liable to be set aside and the same is accordingly set aside. The matter is remanded back to the Appellate Authority for considering the application made for condonation of delay afresh duly putting the parties on notice including the Respondent No. 1 herein and pass a reasoned



order giving reason either for accepting the delay in filing the statutory appeal or for rejecting the same. In case the authorities condones the delay in filing the appeal, the appeal shall be taken on record and necessary orders will be passed in the appeal on merits strictly in accordance with law. The entire exercise shall be completed as expeditiously as possible, preferably within a period of 12 weeks from the date of receipt of a copy of this order. It is needless to mention that before passing any orders, the parties shall be put on notice and given an opportunity of hearing. Any orders passed shall be communicated to the parties.

7. With the above directions, the Writ Petition stands allowed to the extents indicated.

(A. Abhishek Reddy , J)

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