IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
APPELLATE SIDE

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 6226 of 2025

Calcutta Jute Manufacturing Company Ltd.
Vs
Bhrigu Nath Thakur & Ors.

For the Petitioner	:	Mr. Soumya Majumder, ld. Sr. Adv. Mr. S.K. Singh Mr. R.K. Dubey
For the Respondent No. 1	:	Ms. S. Sengupta, Mr. R. Guha Thakurta.
For the State	:	Mr. Sourav Sen, ld. Sr. Adv. Mr. Soumik Dey.
Hearing concluded on	:	10.04.2025
Judgment on	:	10.04.2025

Shampa Dutt (Paul), J.:

1. Affidavit-of-service filed be kept with the record.

2. The respondent no. 1 is being represented.

3. The present writ application has been preferred against an order dated 04.03.2025 (erroneously mentioned as 24.02.2025 in the certified copy) passed by the Appellate Authority under the Payment of Gratuity Act, 1972.

4. On hearing the learned counsels for the parties and on perusal of the order of the appellate authority under challenge, it appears that the appeal has been disposed of on the following findings:-

> *"Perused all the arguments put forward by the parties. The appellant was asked if he has declared or acknowledged any amount as 'admitted amount' under section 7(4) of the Payment of Gratuity Act 1972. In it's verbal reply the AR of the appellant company emphatically denies that any amount is declared/acknowledge by the appellant as admitted amount u/s 7(4) of the P G Act, 1972. After going through all the case laws of Hon'ble High Court of Calcutta in Auckland Jute Mill case and Gloster Jute Mill case it appears that facts of the instant case is not identical with cases referred by the appellant as in the instant case the appellant has denied to acknowledge any amount as "admitted amount" u/s. 7(4) of the P G Act 1972.* ***It has deposited the appeal money only being compelled by sec. 7(7) of the P G Act 1972.***
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> *More over section 7(7) of the P G Act 1972 clearly states that "[Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal the appellant either produces a certificate of the CA to the effect that the appellant has deposited with him an amount of the gratuity required to be deposited u/s 4 or deposits with the Appellate Authority such amount]".*
>
> *Hence contention of the appellant on the quantum of amount required to be deposited at the time of appeal is not acceptable.*
>
> *Hence the appellant is directed to deposit the rest amount which it's required to be deposited in accordance with the finding dated:17.04.23 of CA within (07) seven working days failing which the appeal may be disposed of according to the provisions of the PG Act 1972.*

Next date will be communicated in due course.

Sd/-
Appellate Authority
Dated 24.02.2025"

5. The actual dispute in the present case is that, the contention of the petitioner is that only the sum of "gratuity amount" is to be deposited at the time of filing an appeal.

6. On the other hand, it is the contention of the respondent no. 1 herein that this being a beneficial legislation, the amount as decided by the Controlling Authority which **includes interest** on the gratuity amount is required to be deposited.

7. It appears from the order under challenge that the stand of the respondent herein has been accepted by the appellate authority, as the petitioner herein in preferring the appeal had admittedly deposited only the "gratuity amount" and not the amount as adjudicated by the Controlling Authority which includes interest. The appeal has been disposed of with the finding against the petitioner.

8. Learned counsel for the petitioner has relied upon the following two judgments of Coordinate Benches of this Court:-

(i) ***Gloster Jute Mills Ltd. vs. Deputy Secretary, Labour Department and Ors. (2002) 3 LLJ 908;***

(ii) ***Auckland International Ltd., Unit-Auckland Jute Mill & Anr. vs. State of West Bengal & Ors. (2006) 3 CalHCN 299;***

9. Learned counsel for the respondent no. 1 has relied upon the following judgments:-

- ***(i)*** ***The K.C.P Employees' Association, Madras vs. The Management of K.C.P. Ltd., Madras & Ors. of the Hon'ble Supreme Court in Civil Appeals Nos. 2142-43 of 1970, dated January 24, 1978;***
- ***(ii)*** ***General Manager (Region), Food Corporation of India, Patna vs. Union of India, through the Secretary, Ministry of Labour & Employment, New Delhi & Ors. 2018 SCC OnLine Pat 6728;***

10. The judgments relied upon by both the parties were duly considered by the appellate authority.

11. Section 7(4)(a) of the Payment of Gratuity Act, 1972 is as follows:-

> ***"Section 7.-***
> *(4)(a) If there is any* ***dispute*** *as to the amount of gratuity payable to an employee under this Act or as to the admissibility of any claim of, or in relation to, an employee for payment of gratuity, or as to the person entitled to receive the gratuity,* ***the employer shall deposit with the controlling authority such amount as he admits to be payable by him as gratuity."***

12. Learned counsel for the respondent no. 1 has submitted that under Section 7(4)(c) of the Act, the Controlling Authority on due inquiry and on hearing the parties, decides the amount of gratuity to which the employee is entitled to and directs the employer to pay the same. The process also includes the payment of said amount to the employee concerned by the Controlling Authority and for non-payment of the said amount there are procedures for recovery of the sum.

13. Section 7(4)(d) then empowers the controlling authority to pay the amount deposited to the person entitled to.

14. On the other hand, the employer, if aggrieved with the order of the controlling authority is at liberty to prefer **an appeal** under Section 7(7) of the Act.

15. Section 7(7) of the Act is as follows:-

> ***"Section 7.-***
> *(7) Any person aggrieved by an order under sub-section (4) may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf:*
> *Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days.*
> ***[Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either produces a certificate of the controlling authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under sub-section (4), or deposits with the appellate authority such amount.]"***

16. The **2nd proviso** provides that to prefer an appeal, the employer has to either deposit with the Controlling Authority an amount equal to the **amount of gratuity required to be deposited under Section 7(4) or deposit with the appellate authority such amount.** Section 7(4)(a) of the act which has already been reproduced earlier, provides that the employer shall deposit with the Controlling Authority (prior to determination) ***such amount as he admits to be payable by him as "gratuity".***

17. As such, the said provisions are clear to the extent that while preferring an appeal under Section 7(7) of the Act, the amount of "gratuity" required to be deposited is provided under Section 7(4)(a) of the Act. Section 7(4)(a) of the act clearly lays down that the amount to be deposited will be as admitted to be **payable by the employer as gratuity.**

18. **In this case, no such 'admitted' amount was deposited with the controlling authority.**

19. It is thus clear that the amount to be deposited under Section 7(7), 2^{nd} proviso of the Act, is the amount of "gratuity" **as admitted** by the employer **prior to determination by the Controlling Authority under Section 7(4)(c) of the act** and, as such, the amount to be determined by the Controlling Authority is a subsequent event, subsequent to deposit of admitted amount of gratuity by the employee as per Section 7(4)(a) of the Act.

20. **Thus, the amount as deposited by the petitioner/employer in this case before the appellate authority, being only the "gratuity" amount, is the admitted amount deposited, as per Section 7(4)(a) of the Act.**

21. The appellate authority has held that there is no 'admitted' amount of gratuity in this case. But admittedly as noted by the appellate authority an amount has been deposited by the employer (being compelled) under Section 7(7) of Act before the appellate authority.

22. As such the said amount being the gratuity amount without interest is to be **treated as the 'admitted' amount** under Section 7(4)(a) of the Act and the same is subject to final determination.

23. The order dated 04.03.2025 (erroneously mentioned as 24.02.2025 in the certified copy) of the appellate authority thus being not in accordance with law is **set aside.**

24. **The appeal is restored to its own file and number** and the appellate authority is directed to adjudicate the appeal on merit, on hearing the parties in accordance with law, by passing a reasoned order and dispose of the appeal preferably within 60 days from the date of this order.

25. **WPA 6226 of 2025 stands disposed of.**

26. There will be no order as to costs.

27. All connected applications, if any, stand disposed of.

28. Interim order, if any, stands vacated.

29. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties expeditiously after due compliance.

(Shampa Dutt (Paul), J.)