IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.36645 of 2026
CNR No. ODHC010858972026

The Superintending Engineer, Anandapur Barrage Division, Salapada, Keonjhar .... ***Petitioner***
Dr. P.P. Behera, ASC

-versus-

Mahendra Kumar Biswal and Another .... ***Opposite Parties***
Mr. S. Roy, Advocate (for O.P. No.1)

CORAM:
THE HON'BLE MR.JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER
12.11.2026

Order No.

1. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Dr. P.P. Behera, learned Addl. Standing Counsel for the State.

3. Mr. S. Roy, learned counsel entered his appearance on behalf of Opposite Party No.1 by filing the Vakalatnama in Court. The same be kept in record.

4. Petitioner has filed the present writ petition *inter alia* challenging the order dtd.18.07.2026 so passed by the appellate authority under the Payment of Gratuity Act, 1972 vide order under Annexure-8.

5. Learned counsel appearing for the Petitioner contended that challenging the order passed by the

Controlling Authority on 29.01.2025 in P.G. Case No.73/2024 under Annexure-2, though the appeal was filed before the appellate authority in terms of the provisions contained under Section-7(7) of the Payment of the Gratuity Act along with an application to condone the delay, but the appellate authority dismissed the same vide the impugned order dtd.18.07.2026 under Annexure-8 *inter alia* on the ground that the appeal is barred by time and statutory deposit of the award has not been made, while preferring the appeal.

5.1. It is contended that Petitioner is now ready and willing to make the statutory deposit for the purpose of filing of the appeal, which was not made in terms of the provisions contained under the 2nd proviso to Section-7(7) of the Act. Section.7(7) of the Act reads as follows:-

> *"**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.]"

5.2. It is accordingly contended that with quashing of the impugned order, Petitioner be permitted to make the statutory deposit before the appellate authority/controlling authority, and the appellate authority be directed to decide the appeal on merit.

6. Learned counsel appearing for Opposite Party No.1 on the other hand contended that since there is no provision for condonation of delay in filing the appeal beyond 120 days as provided under the 1st proviso to Section 7(7) of the Act and provision contained under the 2nd proviso to Section 7(7) of the Act was never complied with, which is a mandatory requirement, no illegality and irregularity can be found with the impugned order and the Writ Petition is liable for dismissal.

7. Having heard learned counsel appearing for the parties and considering the submission made, this Court after going through the provisions contained under the 1st proviso to Section-7(7) of the Act finds that an appeal against an order passed by the authority under the Payment of Gratuity Act is required to be filed within a period of sixty (60) days from the date of the order and such period can be extended by another sixty (60) days. Admittedly, the present appeal was filed by the Petitioner much beyond the statutory period of 120 days. Not only

that the appeal was also not filed by complying the provisions contained under the 2nd proviso to Section-7(7) of the Act.

7.1. Since while preferring the appeal, the provision contained under the 2nd proviso to Section-7(7) of the Act was never followed which is a mandatory requirement and the appeal is admittedly filed beyond the period of 120 days with no statutory provision to condone the delay beyond 120 days, this Court finds no illegality or irregularity with the impugned order dtd.18.07.2026 so passed by the appellate authority under Annexure-8.

8. Accordingly, this Court is not inclined to interfere with the order dtd.18.07.2026 and dismiss the Writ Petition.

9. The Writ Petition stands dismissed accordingly.

(Biraja Prasanna Satapathy)
Judge

Sipra

Signature Not Verified

Digitally Signed
Signed by: SIPRA MUDULI
Designation: Senior Stenographer
Reason: Authentication
Location: High Court of Orissa, Cuttack
Date: 13-Nov-2026 17:20:50