

Sayali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 8275 OF 2025

Asia Powers Overseas and Others ... Petitioners
V/s.
Arun Dattaram Jadhav ... Respondents

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DEEPAK
UPASANI

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Mr.Vivek P. with Parichehr Zaiwalla, for Petitioners.

Mr. Shailesh K. More with Priyesh More, for
Respondent – employee.

CORAM : AMIT BORKAR, J.

DATED : APRIL 23, 2026

P.C.:

1. The challenge raised in present petition is arising from the order dated 11th December, 2024 passed by the learned Member, Industrial Court, who was exercising jurisdiction as Appellate Authority under provisions of the Payment of Gratuity Act. By said order, the application moved by present petitioners for condonation of delay came to be rejected, resultantly the appeal preferred under Section 7(7) of the Payment of Gratuity Act was not entertained for hearing on merits.

2. The grievance of petitioners is that delay ought to have been excused and matter ought to have been considered substantively.

3. Under the statutory scheme, an appeal against order under the Payment of Gratuity Act is required to be filed within period of 60 days. Legislature has empowered Appellate Authority to condone delay for further period of 60 days. Thus, combined reading makes clear that appeal may be entertained within total span of 120 days, subject to satisfaction regarding cause for initial delay beyond first 60 days. But after expiry of said period, the statute does not confer any unlimited discretion. When statute says authority may condone up to certain extent, it by necessary implication excludes condonation thereafter.

4. This legal position has already received consideration before this Court in the matter of *Cancer Relief Society, Rashtra Sant Tukdoji Cancer Hospital and Research Centre v. Assistant Commissioner of Labour and Controlling Authority under Payment of Gratuity Act*, reported in (2004) 3 Mah LJ 572. In said decision it has been clearly held that where delay exceeds total permissible period of 120 days, the Appellate Authority under the Act has no jurisdiction to condone same. This Court sees no reason to take different view.

5. Coming to reasons stated by petitioners in their application, reference is made to summer vacation and some other administrative or practical causes. Such reasons may be relevant where authority is otherwise competent to extend time. If delay were within condonable period, then question whether cause was bona fide would require scrutiny. But once factual position shows

that delay has crossed statutory maximum of 120 days, then quality of explanation becomes irrelevant.

6. Having regard to admitted position that appeal was presented beyond aggregate period of 120 days, the learned Appellate Authority had no competence in law to condone such delay. The order impugned therefore cannot be termed arbitrary, perverse, or contrary to statute.

7. Therefore, in considered opinion of this Court, the appellate authority has rightly dismissed the application as well as consequential appeal. No case for interference under writ jurisdiction is made out.

8. The petition being devoid of merits stands dismissed. Rule is discharged. No order as to costs.

(AMIT BORKAR, J.)