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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 12677/2021**

PROMINENT PEST CONTROL THROUGH ITS PROPRIETOR

.....Petitioner

Through: Mr. Prakhar Dixit and Mr. Siddharth Singh, Advocates.

versus

DEPUTY LABOUR COMMISSIONER & ANR.Respondents

Through: Mr. Tushar Sannu and Mr. Fajallu Rehman, Advocates for Respondent No. 1.

Mr. Saumitra Singhal, Advocate for Respondent No. 2.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

% **13.05.2026**

1. The present writ petition has been preferred against the order dated 01.08.2019, *vide* which the Controlling Authority under the Payment of Gratuity Act, 1972 (hereinafter referred to as the “Gratuity Act”) directed the management/appellant to pay the workman/respondent no. 2 a sum of Rs.1,31,538/- towards gratuity, along with accrued interest @ 10% per annum from 24.08.2017 till the date of realization.

2. Briefly stated, the workman had approached the Controlling Authority with a claim application wherein it was stated that he was employed with the management at the post of “Sprayer” w.e.f. 10.08.1998 till 25.07.2017, and his last drawn wages were Rs.12,000/- per month. It



was claimed that when he demanded his statutory dues towards gratuity, his services were terminated by the management. Although he sent a demand notice dated 19.08.2017, the same was neither replied to nor was the gratuity amount paid.

3. On being served, the Management appeared before the Authority and filed its reply to the claim application, averring therein that the establishment was not covered under the purview of the Gratuity Act as they had not employed more than six employees in the establishment. The workman filed his rejoinder, thereby contesting the reply. In support of his claim, the workman filed his affidavit of evidence, wherein he disclosed the names of 12 employees who had worked along with him in the establishment. He also stated that he was registered with Employees' Provident Fund Organization (EPFO) and enclosed an application dated 13.03.2000 that was filed on behalf of the management. The application was filed along with a list of 20 employees for coverage under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter "EPF Act"). The management stopped appearing in the proceedings and also did not file any evidence. Eventually, the management was proceeded *ex parte* on 26.06.2019.

4. Before this Court, learned counsel for the petitioner/management contended that the Authority did not take into account the reply filed by the management, as well as the cross-examination of the workman, in the correct perspective. He submits that the management had categorically stated that it had not employed more than six employees and, thus, was not covered under the purview of the Gratuity Act.



5. A preliminary objection has been taken by the learned counsel for the respondent that the present writ petition is not maintainable, as the impugned order is assailable before the Appellate Authority under Section 7(7) of the Gratuity Act.

6. Concededly, no such appeal has been preferred by the petitioner, who straightaway approached this Court, and the petition is, therefore, liable to be dismissed on this ground alone. This Court also notes that the petition is accompanied by documents, including an alleged statement of a pre-printed format, which were never placed before the Authority, and thus, the workman had no opportunity to respond to the same. Even otherwise, this Court takes note of the application furnished on behalf of the workman under the Employees' Pension Scheme, 1995 (hereinafter "EPS") that mentions a code allotted to the Management. This clearly indicates that the management was covered under the EPF Act, which would mean that in terms of Section 1(3)(a) of the said Act read with the provisions of the EPS, the management had more than 20 employees at the relevant point in time.

7. In view of the totality of the facts, as well as the limited scope of interference under a writ petition [Ref.: Syed Yakoob Vs. K.S. Radhakrishnan¹], this Court finds no merit in the present petition. The same is accordingly dismissed.

MANOJ KUMAR OHRI, J

MAY 13, 2026/pmc

¹ 1963 SCC OnLine SC 24