2026:AHC:211004

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 41019 of 2026

The Divisional Sales Manager Up Forest Corporation
Ashok Vihar Colony
.....Petitioner(s)

Versus

The Appellate Controlling Authority And 2 Others
.....Respondent(s)

Counsel for Petitioner(s)	:	Priyanka Sharma
Counsel for Respondent(s)	:	C.S.C.

Court No. - 36

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. Heard Mrs. Priyanka Sharma, learned counsel for petitioner and Sri Prabhakar Tripathi, learned Standing Counsel for State-Respondents.

2. Petitioner before this Court is Forest Department and has filed an appeal under Section 7(7) of Payment of Gratuity Act, 1972 wherein an order dated 29.11.2024 was challenged and appeal was filed on 18.02.2025, i.e., after 80 days.

3. Relevant provision so far as appeal and limitation is concerned is Section 7(7) of Act and for reference the same is reproduced hereinafter:

> "(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."

4. From a plain reading of aforesaid provision it is evident that if an appeal is filed beyond 60 days, the Appellate Authority under said Act has a discretion to condone delay, of further 60 days and undisputedly it was only 20 days (80 days in total).

5. However, as referred in impugned order the only reason to dismissed appeal was that it was filed beyond 60 days despite proviso to Section 7(7) was quoted which provides a further period of 60 days also, however, it was absolutely skipped while passing impugned order probably on ground that it was not argued by petitioner before Appellate Authority.

6. Learned counsel for petitioner by referring impugned order and relevant provisions fairly submits that no separate application for condonation of delay was filed alongwith appeal and even no reference was made in memo of appeal so far as delay is concerned.

7. In aforesaid circumstances and in the interest of justice, considering above referred period of limitation and actual delay in filing appeal, impugned order dated 10.12.2025 is hereby set aside and matter is remitted to Appellate Authority to decide afresh. In case petitioner files an application for condonation of delay within seven days from today, the Appellate Authority will consider said application after hearing both parties taking note of aforesaid provision as well as a judgment passed by this Court in **State of U.P. and another vs. Sripal Singh and another. 2026:AHC:189813.**

8. The writ petition is accordingly disposed of.

October 8, 2026
AK

(Saurabh Shyam Shamshery,J.)

Digitally signed by :-
AWADESH KUMAR
High Court of Judicature at Allahabad