

(2017) 03 KAR CK 0088
In the Karnataka High Court
Case No : W.A. No. 3701-3702 of 2016 (L-PG)

Assistant Executive Engineer

APPELLANT

Vs

Deputy Labour Commissioner and Appellant Authority

RESPONDENT

Date of Decision : 14-03-2017

Acts Referred:

Payment of Gratuity Act, 1972 — Section 7(7)

Citation : (2017) LabLR 512

Hon'ble Judges : Mr. Subhro Kamal Mukherjee, CJ. and Mr. Budihal R.B., J.

Bench : Division Bench

Advocate : Sri K.S. Bheemaiah, Advocate, for the Appellant; Sri V. Sreenidhi, AGA, for the Respondent Nos. 1 & 2

Final Decision : Dismissed

Judgement

Mr. Subhro Kamal Mukherjee, C.J.—The appeals are barred by limitation. The delay is of 18 (eighteen) days.

2. These writ appeals are directed against the judgment and order dated June 21, 2016, passed by the Hon'ble Single Judge, dismissing the writ petitions holding that the appellate authority under the Payment of Gratuity Act, 1972 (for short "the said Act"), had no power to condone the delay in filing the appeal.

3. Under sub-section (7) of Section 7 of the said Act, any person aggrieved by an order passed under sub-section (4) of Section 7 of the said Act may file an appeal within 60 (sixty) days from the date of receipt of the order. It has been provided that the appellate authority could grant further extension of time for another 60 (sixty) days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within 60 (sixty) days. There is no provision for extension of time beyond 120 (one hundred twenty) days.

4. As the appeal was filed after 120 (one hundred twenty) days from the date of communication of the order, the Hon'ble Single Judge was right in dismissing the writ petitions seeking for condonation of delay and for entertainment of the

appeal.

5. The Hon"ble Single Judge, rightly, relied upon the decision in the case of Bangalore Metropolitan Transport Corporation v. The Deputy Labour Commissioner and the Appellate Authority under the Payment of Gratuity Act Bangalore And Others (HR 2009 Kar 717), where this Court held that the provisions of the said Act did not vest any power to the appellate authority to extend the time beyond the period prescribed by the first proviso to sub-section (7) of Section 7 of the said Act. There is no application of the provisions of the Limitation Act in a proceeding under the said Act.

6. Therefore, we do not find any merit in the writ appeals.

7. The application for condonation of delay is dismissed. Consequently, the writ appeals are, also, dismissed.

8. We make no order as to costs.