

(2023) 04 SHI CK 0103

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No.8406 Of 2021

Engineer-In-Chief & Another

APPELLANT

Vs

Sheela Devi

RESPONDENT

Date of Decision : 25-04-2023

Acts Referred:

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

Citation : (2023) 04 SHI CK 0103

Hon'ble Judges : Vivek Singh Thakur, J;Sushil Kukreja, J

Bench : Division Bench

Advocate : Anup Rattan, Rakesh Dhaulta, Rahul Mahajan

Final Decision : Dismissed

Judgement

Vivek Singh Thakur, J

1. Present petition has been preferred by the State against impugned order dated 20.11.2020 passed by Joint Labour Commissioner-cum-Appellate Authority, under Section 7(7) of the Payment of Gratuity Act, 1972, whereby appeal preferred by the petitioner-State against order dated 10.10.2019 passed by Controlling Authority-cum-Labour Officer, Mandi was dismissed.

2. Admittedly, appeal was preferred after 279 days from the date of receipt of copy of order by the petitioners-State.

3. Section 7(7) of the Payment of Gratuity Act, 1972 reads as under:-

" 7(7) Any person aggrieved by an order under subsection (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 Whether the reporters of the local papers may be allowed to see the Judgment? Yes 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. Aforesaid provision of Section 7(7) of the Act provides that though an appeal can be entertained by the Appellate Authority after expiry of initial period of limitation of sixty days provided for appeal, but only with extension of further sixty days which clearly indicates that after limitation period of sixty days, further sixty days are available with the person aggrieved to file an appeal under Section 7(7) of the Act by satisfying the Appellate Authority that appellant was prevented from filing appeal within time by sufficient cause and after extended period of sixty days, there is no provision for condonation of delay. Therefore, Appellate Authority has rightly rejected the prayer of petitioner for condonation of delay beyond extended period of sixty days.

5. We are supported by pronouncement of Division Bench of this Court dated 12.4.2023 passed in CWP No. 1642 of 2022, titled as State of H.P. & another Vs. Kaul Singh, wherein identical point has been considered and decided by referring pronouncement of the Supreme Court.

6. In view of above, we do not find any merit in the petition and accordingly the same is dismissed alongwith pending applications, if any.