
(2015) 05 UK CK 0020

In the Uttarakhand High Court

Case No : Writ Petition No. 250 (MS) of 2003

G.B. Pant University

APPELLANT

Vs

Appellate Authority and Others

RESPONDENT

Date of Decision : 13-05-2015

Acts Referred:

Constitution of India, 1950 — Article 227
Limitation Act, 1963 — Section 5
Payment of Gratuity Act, 1972 — Section 7, 7(7)

Citation : (2015) 146 FLR 1095 : (2015) LLR 1018

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : Rajendra Dobhal and Devang Dobhal, for the Appellant

Final Decision : Allowed

Judgement

Alok Singh, J—Mr. Rajendra Dobhal, Sr. Advocate assisted by Mr. Devang Dobhal, Advocate for the petitioner.

Mr. Gajendra Tripathi, Brief Holder for State of Uttarakhand.

None appeared on behalf of respondent No. 3, despite the fact that name of Mr. A.N. Sharma, Advocate for respondent No. 3 is shown in the list.

Petitioner - University has invoked supervisory jurisdiction of the Court under Article 227 of the Constitution of India assailing the judgment and order dated 22.2.2003 passed by Appellate Authority/Labour Commissioner, Uttaranchal whereby provident fund appeal filed by the petitioner against the judgment and order dated 30.3.2002 passed by the Controlling Authority/Deputy Labour Commissioner, Kumaon, Haldwani, was dismissed being time barred.

2. Brief facts of the present case, inter alia, are that respondent No. 3, herein, moved an application before the Controlling Authority under section 7 of the Payment of Gratuity Act, which was hotly contested by the employer University petitioner, herein, however, learned Controlling Authority was pleased to allow

the application moved by the workman-respondent No. 3 vide order dated 30.3.2002 directing the employer university-petitioner, herein, to pay amount of Rs. 39,732/- as gratuity to respondent No. 3, herein, along with interest @ 9% per annum.

3. Order dated 30.3.2002 was dispatched to the petitioner-University on 8.4.2002, which was received in the office of University on 20.4.2002 and thereafter, appeal was preferred by the University-petitioner, herein, under section 7(7) of the Act before the Appellate Authority on 20.8.2002 along with application under section 5 of the Limitation Act, seeking condonation of delay in filing the appeal.

4. It is stated in para 14 of the writ petition that amount of gratuity was deposited by the employer University - petitioner, herein, with the Controlling Authority before preferring appeal.

Learned Appellate Authority in the impugned order has observed that no sufficient cause has been shown by the appellant, therefore, appeal is dismissed being time barred.

Perusal of impugned order would reveal that cause of delay has not been discussed and application seeking condonation of delay was rejected summarily. Floating observation that delay has not been explained properly is not desirable from the authorities exercising judicial or quasi-judicial function. Appellate Authority, should discuss all the facts narrated for condonation of delay and reasons for accepting or rejecting the same. Therefore, order impugned does not sustain in the eyes of law. Consequently, petition is allowed. Impugned order dated 22.2.2003 dismissing the appeal being time barred is hereby quashed. Learned Appellate Authority is directed to decide the question of condonation of delay, sympathetically, in view of proviso to section 7(7) of the Act.

Release of the amount in favour of the respondent No. 3, as directed by this Court under interim order, shall be subject to the final decision in the appeal.