

(2014) 04 UK CK 0002

In the Uttarakhand High Court

Case No : Writ Petition Nos. 497, 2937 to 2939, 2942, 2945, 3009, 3010 to 3017, 3020 to 3022, 3024 to 3029, 3035 of 2013 (M/S) and Writ Petition No. 656 of 2014 (M/S)

G.B. Pant University

APPELLANT

Vs

Controlling Authority and Others

RESPONDENT

Date of Decision : 01-04-2014

Acts Referred:

Limitation Act, 1963 — Section 14 — Payment of Gratuity Act, 1972 - Section 7, 7 (4), 7(4), 7(7)

Citation : (2015) 2 UC 895

Hon'ble Judges : Alok Singh, J.

Bench : Single Bench

Advocate : Rajendra Dobhal, Senior Advocate assisted by G.D. Joshi, Advocate, for the Appellant

Final Decision : Disposed off

Judgement

Alok Singh, J.?Present petitions were filed challenging the orders passed by the Controlling Authority directing the petitioner/employer herein to make the payment of gratuity under Section 7 (4) of the Payment of Gratuity Act, 1972. As per sub-section (7) of Section 7 of the Act, any person aggrieved by the order under sub-section (4) of Section 7 of the Act, may, within sixty days from the date of receipt of order, prefer the appeal before the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf.

2. Rule 18 of the U.P. Payment of Gratuity Rules, 1975 provides the procedure of filing appeal.

3. In view of sub-section (7) of Section 7 of the Act read with Rule 18 of the Rules, I find that impugned orders can be challenged before the appellate authority under Section 7(7) of the Act in a manner as provided under Rule 18 of the Rules. Therefore, petitioners have efficacious remedy of filing appeal wherein

question of applicability of the Act may also be decided.

4. Learned counsel for the petitioners submits that since present petitions were filed in the year 2013 by the petitioner challenging the impugned orders passed under Section 7(4) of the Act, therefore, in the event of filing appeal within four weeks from today, same should not be dismissed on the ground of limitation giving the benefit of Section 14 of the Indian Limitation Act. He further submits that statutory deposit to be made alongwith memorandum of appeal should not be released in favour of the claimants during the pendency of the appeal.

5. In view of the above, I am not inclined to entertain these petitions leaving the petitioners to challenge the impugned orders before the appellate authority under Section 7(7) of the Act read with Rule 18 of the Rules. However, it is held that if appeals are filed within four weeks from today, same shall not be dismissed on the ground of limitation and shall be decided in accordance with law after hearing both the parties. Amount of statutory deposit shall not be released in favour of the claimants during the pendency of the appeal. Amount deposited before this Court shall be refunded in favour of the petitioners within a week positively enabling them to make statutory deposit before the appellate authority.

6. Appellate authority shall make every endeavour to decide the appeals at the earliest preferably within six months from the date appeals are preferred. All the applications stand disposed of accordingly.