

**IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA**

**CWP No. 2288 of 2020.**

**Reserved on: 15<sup>th</sup> July, 2020.**

**Decided on : 31<sup>st</sup> July, 2020.**

---

The Engineer-in-Chief, HPPWD & Anr. Versus	... <b>Petitioners.</b>
---	-------------------------

---

Smt. Durgji Devi	.... <b>Respondent.</b>
------------------	-------------------------

---

***Coram:***

***The Hon'ble Mr. Justice Sureshwar Thakur, Judge.***

***The Hon'ble Mr. Justice Chander Bhusan Barowalia, Judge.***

***Whether approved for reporting?<sup>1</sup>***

<b>For the Petitioners:</b>	Mr. Hemant Vaid and Mr. Hemanshu Mishra, Additional Advocate Generals with Mr. Vikrant Chandel Deputy Advocate General.
<b>For the Respondent:</b>	Nemo.

---

**Sureshwar Thakur, Judge .**

The State of Himachal Pradesh, is, aggrieved by the dismissal of its appeal, by the Joint Labour Commissioner-cum-Appellate Authority, and, as became directed against an order made by the Controlling Authority-cum-Labour Officer, Mandi Zone, H.P. In the order rendered under the Payment of Gratuity Act, 1972, by the Controlling Authority-cum-Labour Officer concerned, the latter proceeded to, even for the period of rendition of service, by the respondent herein, on a daily rated/casual basis, hence directed payments, of, gratuity, vis-a-vis the petitioner/respondent herein.

---

<sup>1</sup> Whether reporters of the local papers may be allowed to see the judgment?

...2...

2. It became contended before the Appellate Authority, that there is, a, purported complete forbiddance, under, the relevant provisions of CCS Pension Rules, as well as, under the provisions of the Payment of Gratuity Act, rather against computation of the afore period(s), of, rendition of service, hence, for determining claim(s) towards gratuity/post retiral benefits qua the respondent. However, the Appellate Authority rather than proceeding to decide the afore res controversia engaging the parties to the lis, it proceeded to dismiss the appeal, on anchor, of, it being neither maintainable nor being properly constituted, (i) and, the afore dismissal of the petitioner's appeal, as, preferred before the Appellate Authority, was grooved, in, the proviso occurring, below the provisions of Section 7(7), of, the Payment of Gratuity Act, 1972, mandate whereof stands 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.

**...3...**

Provided that the appropriate Government or 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 any employer shall be admitted unless at the time of preferring the appeal, the appellant either produces a certificate an amount equal to the amount of gratuity required to be deposited under subsection (4), or deposits with the appellate authority such amount”

(ii) thereupon, the Appellate Authority concluded qua with the afore mandatory statutory provisions, requiring imperative completest compliance, hence remaining evidently unsatiated, inasmuch as, the appellant/petitioner herein, failing to within the ambit, of, the afore proviso, produce either certificate of an amount equal, to the gratuity required, to be deposited under Section 4, of, the Act supra rather also it failing to deposit before or with the Appellate Authority, the

**...4...**

afore determined amount, thereupon, the statutory appeal warranting dismissal. The afore meritorious interpretation, as, made by the Appellate Authority, vis-a-vis, the necessity of an imperative completest statutory compliance, being made by the apposite aggrieved, for enabling the award rendered by the Controlling authority, hence, becoming successfully challenged, obviously does not warrant any interference, and, as a further sequel, the further conclusion, as, recorded by the Appellate Authority, vis-a-vis, the appeal being mis-constituted, and, also it not being maintainable, are both, tenable, and, meritorious reasons.

3. For the fore going reasons, there is no merit in the extant petition, and, it is dismissed accordingly. The order impugned before this Court is maintained, and, affirmed. All pending applications also stand disposed of.

**(Sureshwar Thakur)**  
**Judge**

**(Chander Bhusan Barowalia)**  
**Judge.**

**31<sup>st</sup> July, 2020.**  
**(jai)**