2026:HHC:25097

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.10129 of 2026

Decided on: 25.06.2026

Pammi Devi **.....Petitioner**

Versus

The State of H.P. and Ors **....Respondents**

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?[1]

For the Petitioner: Mr. Bonit Thakur, Advocate.

For the Respondents: Mr. Anup Rattan, Advocate General with Mr. L.N.Sharma, Additional Advocate General and Mr. Rajat Choudhary, Assistant Advocate General.

Jyotsna Rewal Dua, Judge

Notice. Mr. Rajat Choudhary learned Assistant Advocate General, appears and waives service of notice on behalf of the respondents.

In view of grievance of the petitioner, considering the order impugned herein, the settled legal position and the submissions made by learned counsel for the parties, reply to the writ petition is not required to be called from the respondents. The matter has accordingly

[1]Whether reporters of print and electronic media may be allowed to see the order? Yes.

2026:HHC:25097

been heard at this stage.

2 Petitioner submitted gratuity claim for her late husband Sh. Sarda Ram on 14.07.2021 before the Controlling Authority Kangra Zone at Dharamshala (respondent No.3) under the Payment of Gratuity Act, 1972 (the Act in short). Petitioner's claim was allowed by respondent No.3 on 01.11.2022 (Annexure P-1). Respondents were directed to make payment of gratuity amounting to Rs.1,48,846/- alongwith simple interest @ 10% per annum w.e.f. 30.06.2018 till the actual payment as per the provisions of Section 7(4)(c) of the Act.

Feeling aggrieved against the aforesaid order dated 01.11.2022, respondents No. 4 and 5 preferred appeal on 07.10.2024 before the Deputy Labour Commissioner-cum-Appellate Authority (respondent No.2) under the Act. Though the appeal was dismissed on 16.09.2025 (Annexure P-2), however, in the process, the interest was reduced from 10% to 9% and made payable w.e.f. the date of institution/filing gratuity claim application before the Controlling Authority i.e. w.e.f. 14.07.2021 to 29.02.2024. This has given cause of action to the petitioner for assailing the order dated 16.09.2025.

3. Learned counsel for the petitioner submits that

2026:HHC:25097

appeal preferred by respondents No. 4 and 5 before respondent No.2 was not maintainable, having been preferred beyond the maximum permissible period of 120 days.

4. I have heard learned counsel on both sides on the above issue.

In District ***Ayurvedic Officer Vs. Joint Labour Commissioner-cum-Appellate Authority***[2], while interpreting Section 7 of the Payment of Gratuity Act, more specifically Section 7(7), placing reliance upon several precedents, it was held that appeal could be filed under Section 7(7) of the Act within sixty days from the receipt of order passed under Section 7(4) of the Act. The statutory period of 60 days can be further extended by the Appellate Authority for a period of 60 days, in case it is satisfied that the appellant/aggrieved person was prevented by sufficient cause in not preferring the appeal within the said period of 60 days. The Payment of Gratuity Act is a special enactment. Period of 60 days is the prescribed limitation under Section 7(7) for instituting appeal against order passed under Section 7(4) of the Act. The Appellate Authority's discretion to extend the limitation period is only

---

[2] CWP No. 1757 of 2018 decided alongwith connected matters on 23.05.2022

2026:HHC:25097

for further period of 60 days on showing of sufficient cause.

Relevant portion from the decision reads as under: -

> "4. Learned counsel on both sides have assisted in putting forth applicable legal provisions on the facts involved as well as law on the subject. On consideration of entire matrix, it becomes amply clear that the learned Appellate Authority was justified in dismissing the appeal holding it to be not maintainable being barred by limitation. This is on following counts:-
>
> 4(i) .....
>
> 4(ii) The order passed under Section 7(4) is assailable under Section 7(7),which 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 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(iii) Statutory right has been made available under Section 7(7) of the Act to a person aggrieved by an

2026:HHC:25097

order passed under Section 7(4) of filing an appeal within a period of 60 days from the date of receipt of the order to the appropriate government or the specified competent authority. The first proviso of Section 7(7) lays down that on being satisfied that the appellant was prevented by sufficient cause in not preferring the appeal within the statutory period of 60 days, the Appellate Authority may extend the period of filing the appeal by further period of 60 days. At this stage it would be apt to notice ***(2016) 16 SCC 152, titled Suryachakra Power Corporation Limited vs. Electricity Department***. The case involved interpretation of Section 125 of the Electricity Act, 2003 which provided for filing appeals to the Hon'ble Supreme Court within 60 days from the date of communication of the decision. It also provided that the Supreme Court on being satisfied that the appellant was prevented by sufficient cause from filing the appeal within the statutory period of 60 days, may extend the said period not exceeding 60 days. Section 125 of the Electricity Act, 2003 reads as under:

> "125. Appeal to Supreme Court.-Any person aggrieved by any decision or order of the Appellate Tribunal, may, file an appeal to the Supreme Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal, to him, on any one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908 (5 of 1908):
>
> Provided that the Supreme Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days."

The Hon'ble Apex Court held that maximum period within which an appeal can be filed under Section 125 was 120 days which included the

2026:HHC:25097

discretion granted to the Hon'ble Supreme Court for condoning the delay. It was further held that the Supreme Court cannot condone the delay beyond further period of 60 days by invoking Section 5 of the Limitation Act by ignoring the statutory limitation prescribed under the Electricity Act, 2003. For so holding, reliance was also placed on ***(2010) 5 SCC 23, titled Chhattisgarh SEB vs. Central Electricity Regulatory Commission***. The germane observations of the Apex Court in this regard are as follows:

> "5. The appeal under Section 125 of the Electricity Act, 2003 in the Supreme Court has to be filed within 60 days from the date of communication of the decision or order of the Appellate Tribunal. However, the Supreme Court, if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within the said period of 60 days, may allow it to be filed within a further period not exceeding 60 days. Thus, the maximum period within which an appeal can be filed under Section 125 is 120 days which includes the discretion granted to the Supreme Court to condone the delay limited to 60 days. The Supreme Court cannot condone the delay beyond 60 days by invoking Section 5 of the Limitation Act, 1963 and ignoring the special limitation prescribed under the Electricity Act, 2003. This Court, in Chhattisgarh SEB v. Central Electricity Regulatory Commission, at paragraph-32, has settled this issue:
>
> > "32. In view of the above discussion, we hold that Section 5 of the Limitation Act cannot be invoked by this Court for entertaining an appeal filed against the decision or order of the Tribunal beyond the period of 120 days specified in Section 125 of the Electricity Act and its proviso. Any interpretation of Section 125 of the Electricity Act which may attract the applicability of Section 5 of the Limitation Act

2026:HHC:25097

> read with Section 29(2) thereof will defeat the object of the legislation, namely, to provide special limitation for filing an appeal against the decision or order of the Tribunal and proviso to Section 125 will become nugatory."

The above judgment alongwith several others were considered again in ***(2017) 5 SCC 42, titled Oil and Natural Gas Corporation Limited vs. Gujarat Energy Transmission Corporation Limited and Others***. The Apex Court held that when there is a statutory command by the legislation regarding limitation and where there is a postulate that delay can be condoned for a further period not exceeding 60 days, then it is needless to say that the same postulation is based on certain underlined, fundamental, general issues of public policy. The statutory adjudicatory forum is meant to expeditiously decide the grievances of a person aggrieved by an order of adjudicatory officer or by an appropriate Commission. The Act (Electricity Act therein) was a special legislation within the meaning of Section 29(2) of the Limitation Act. Therefore, the prescription with regard to limitation mentioned in the Special Act has to have binding effect. The limitation prescription in the Special Act has to be followed in view of its mandatory nature. The observations of the Apex Court are extracted hereinafter:-

> "15. From the aforesaid decisions, it is clear as crystal that the Constitution Bench in Supreme Court Bar Assn. has ruled that there is no conflict of opinion in Antulay's case or in Union Carbide Corporation's case with the principle set down in Prem Chand Garg vs. Excise Commr. Be it noted, when there is a statutory command by the legislation as regards limitation and there is the postulate that delay can be condoned for a further period not exceeding sixty days, needless

2026:HHC:25097

> to say, it is based on certain underlined, fundamental, general issues of public policy as has been held in Union Carbide Corporation's case. As the pronouncement in Chhattisgarh SEB lays down quite clearly that the policy behind the Act emphasizing on the constitution of a special adjudicatory forum, is meant to expeditiously decide the grievances of a person who may be aggrieved by an order of the adjudicatory officer or by an appropriate Commission. The Act is a special legislation within the meaning of Section 29(2) of the Limitation Act and, therefore, the prescription with regard to the limitation has to be the binding effect and the same has to be followed regard being had to its mandatory nature. To put it in a different way, the prescription of limitation in a case of present nature, when the statute commands that this Court may condone the further delay not beyond 60 days, it would come within the ambit and sweep of the provisions and policy of legislation. It is equivalent to Section 3 of the Limitation Act. Therefore, it is uncondonable and it cannot be condoned taking recourse to Article 142 of the Constitution."

Applying the ratio of the above judgments to the enactment involved in the instant petition, it can be safely held that appeal can be filed under Section 7(7) of the Payment of Gratuity Act within 60 days from the date of receipt of the order passed under Section 7(4) of the Act. The statutory period of 60 days can be further extended by the Appellate Authority for a period of 60 days, in case it is satisfied that the appellant/aggrieved person was prevented by sufficient cause in not preferring the appeal within the said period of 60 days. The Payment of Gratuity Act is a special enactment. Period of 60 days is the prescribed limitation under Section 7(7) for instituting appeal against order passed under Section 7(4) of the Act. The

2026:HHC:25097

> Appellate Authority's discretion to extend the limitation period is only for further period of 60 days on showing of sufficient cause. The question is answered accordingly. In the instant case order under Section 7(4) of the Act was passed on 17.1.2017 and dispatched to the petitioner on 24.1.2017. The appeal under Section 7(7) of the Act against order dated 17.1.2017 was instituted by the petitioner on 3.8.2017. There was delay of 198 days in filing the appeal. The petitioner had not even filed any application for condoning the delay. The petitioner did not make out any sufficient cause for not preferring the appeal within the statutory period of 60 days. No case was made out even for extension of the statutory period by further period of 60 days. The appeal was clearly barred by limitation. Having been filed beyond maximum period of 120 days, the appeal was required to be dismissed as not maintainable. It was accordingly dismissed as such the Appellate Authority. No interference is called for in the order passed by the learned Appellate Authority."

Letters Patent Appeal No. 189 of 2022 preferred against the aforesaid decision in *District Ayurveda Officer*[2] was dismissed by the Hon'ble Division Bench of this Court on 23.11.2022.

Similar is the ratio of ***State of H.P. & another Vs. Kaul Singh***[3]**.** The operative portion of this decision is as under: -

> *"11. Hence, we are of the opinion that as per Section 7(7) of the Act, the maximum period of limitation*

[3] CWP No. 1642 of 2022 decided on 12.04.2023.

2026:HHC:25097

available to the petitioners for filing the appeal against the order passed by the Controlling Authority was 120 days, whereas, in the present case the appeal had been filed much beyond the period of limitation. Thus, the Appellate Authority had rightly dismissed the appeal filed by the petitioners on the ground that it was barred by limitation. No ground for interference is made out."

5. Instant appeal had been filed by respondents No. 4 and 5 after lapse of two years from the date of order passed by the Controlling Officer. Hence, in view of settled legal position, the appeal preferred by respondents No.4 and 5 before respondent No.2 was not maintainable. Accordingly, instant writ petition is allowed. The impugned order dated 16.09.2025 (Annexure P-2) is set aside.

Pending application(s), if any, also to stand disposed of.

Jyotsna Rewal Dua
Judge

June 25, 2026
R.Atal