Serial No.126

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

WP (C) No. 2298/2026
CM No. 4966/2026

Date of Pronouncement:- 27.07.2026
Uploaded on: 29.07.2026

The Jammu & Kashmir Central Cooperative Bank Ltd
Through its Managing Director Sh. Des Raj
Head Office Sehkari Bhawan, Rail Head Complex Jammu.

…..Appellant(s)/Petitioner(s)

Through: Mr. Pawan Dev Singh, Advocate.

V/s

Anil Kishore Gupta S/o Sh. Hans Raj Gupta
R/o Govind Pura Jammu Cant, Satwari
A/P Extension Trikuta Nagar Jammu. ….. Respondent(s)

Through: Mr. Nischal Sharma, Advocate.

CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER (ORAL)
27.07.2026

1. The instant petition is directed against the order dated 14.02.2026 passed by the Appellate Authority under the Payment of Gratuity Act, 1972 (Deputy Labour Commissioner), Jammu, impugned herein, whereby the application for restoration of the appeal against the order dated 14.08.2025 passed by the Controlling Authority has been made conditional upon the deposit of interest @ 10% per annum with effect from 03.03.2023, along with the production of a certificate evidencing the deposit of the said interest component. It has further been provided

that failure on the part of the petitioner to comply with the said condition would result in the automatic dismissal of the restoration application.

2. It is the case of the petitioner that, in terms of the order dated 14.08.2025 passed by the Controlling Authority, the petitioner was held liable to pay an amount of ₹20,00,000/- along with interest @ 10% per annum with effect from 03.03.2023. Aggrieved thereof, the petitioner preferred an appeal before the Appellate Authority under the provisions of the Payment of Gratuity Act, 1972. However, the appeal came to be dismissed on account of the petitioner's inability to comply with the requirement of pre-deposit under Section 7 of the Act. Thereafter, the petitioner–Bank deposited an amount of ₹20,00,000/-, being the maximum liability determined under the order dated 14.08.2025 passed by the Controlling Authority, and sought restoration of the appeal. The grievance of the petitioner is that the Appellate Authority has made it clear that the appeal would be restored and heard only upon deposit of the entire interest amount as well.

3. Learned counsel for the petitioner submits that the impugned order is contrary to law inasmuch as it erroneously directs the petitioner to deposit the interest component as a pre-condition for restoration of the appeal. It is contended that the liability to pay interest is merely consequential in nature and does not form part of the jurisdictional pre-condition prescribed under the statute. It is further submitted that the interest sought to be pre-deposited cannot be treated as part of the

gratuity amount, particularly when the liability to pay interest may depend upon the facts and circumstances of each case. Accordingly, it is urged that the impugned order warrants interference and deserves to be set aside.

4. Notice. Mr. Nischal Sharma, learned counsel, waives notice on behalf of the respondents. He submits that the requirement of pre-deposit of the gratuity amount necessarily includes the interest accrued thereon and that mere deposit of the principal amount does not satisfy the mandate of Section 7 of the Payment of Gratuity Act, 1972.

5. Learned counsel for the petitioner has placed reliance upon authority of Punjab and Haryana High Court in case titled, ***"M/s Napa Auto Forge Pvt. Ltd Vs. Appellate Authority under the Payment of Gratuity Act-cum-Deputy Labour Commissioner, Faridabad (Haryana) & Ors"*** in CWP No. 6957/2014 (O&M)**.** Learned counsel for the respondent on the other hand has placed reliance upon the judgment passed by the Division Bench of this Court in case titled, "***Badri Nath Koul Vs. U.T of Jammu and Kashmir & Ors"*** in LPA No. 235/2022 to take a view that interest component is held liable to be deposited as well.

6. I have heard both the learned counsels and seen the record.

7. Section 7(7) of the Payment of Gratuity Act provides that any person aggrieved by an order passed by the Controlling Authority under sub-section (4) may, within sixty days from the date of receipt of such order, prefer an appeal before the appropriate Government or such other authority as may be specified. The Appellate Authority, upon

being satisfied that sufficient cause prevented the appellant from preferring the appeal within the prescribed period, may extend the limitation by a further period of sixty days. The second proviso to Section 7(7), however, stipulates that no appeal preferred by an employer shall be entertained unless, at the time of filing the appeal, the appellant either produces a certificate issued by the Controlling Authority certifying that an amount equal to the gratuity determined under sub-section (4) has been deposited with it, or deposits such amount before the Appellate Authority.

8. Under Section 7(4) of the Act, where any dispute arises regarding the amount of gratuity payable, the employer is required to deposit with the Controlling Authority the amount admittedly payable as gratuity. Upon adjudication of the dispute, the Controlling Authority shall determine the amount payable and direct the employer to pay the balance amount, after giving credit for the amount already deposited.

9. A plain reading of the aforesaid provisions makes it evident that the employer is under a statutory obligation to deposit the amount of gratuity admittedly payable. Where the quantum of gratuity is disputed, the Controlling Authority is required to determine the amount legally payable and direct payment after adjusting the amount already deposited. Any person aggrieved by such determination is entitled to avail the statutory remedy of appeal. However, the maintainability of an appeal by an employer is conditional upon compliance with the pre-

deposit requirement prescribed under the second proviso to Section 7(7).

10. Learned counsel for the respondent has placed reliance upon the judgment of the Division Bench of this Court in ***"Badri Nath Koul v. Union Territory of Jammu & Kashmir & Other",*** in LPA No. 235/2022**,** wherein Section 7 of the Act came up for consideration. In the said case, the writ petition was dismissed on the ground of availability of an efficacious alternative remedy of appeal. The Division Bench affirmed the order of the learned Single Judge and observed that the appellant ought to avail the statutory remedy under Section 7(7) of the Act. Since the writ petition itself was held to be not maintainable, the Division Bench consciously refrained from expressing any opinion on the merits of the controversy. The observations regarding the pre-deposit requirement were made only in the context of safeguarding the amount ultimately payable to the employee during the pendency of the appeal. The judgment, therefore, cannot be construed as laying down any authoritative interpretation of the scope or ambit of Section 7(7).

11. Reliance has also been placed upon the judgment of the Division Bench of the Jharkhand High Court in ***"Chairman-cum-Managing Director, M/s Heavy Engineering Corporation Ltd. v. Union of India & Others"*** in LPA No. 757/2019. In the said decision, the Court held that the expression "amount found to be payable" would include not only the principal gratuity amount but also the interest awarded

thereon. Consequently, it was held that an appeal would be maintainable only upon deposit of the entire amount comprising both gratuity and interest.

12. Learned counsel has further referred the judgment of the Kerala High Court in case titled, ***"The Managing Director, Kerala State Financial Enterprises Ltd Vs. Sri. Mathew P. Babu & Ors"*** in WP(C) No. 11384/2025, reported as **2025(6) KLT 729**, wherein it was held that the deposit contemplated under the second proviso to Section 7(7) includes the gratuity amount together with the interest awarded thereon. A contrary view, however, has been expressed by the Punjab and Haryana High Court in ***M/s Napa Auto Forge Pvt. Ltd. v. Appellate Authority under the Payment of Gratuity Act-cum-Deputy Labour Commissioner, Faridabad & Others"*** in CWP No. 6957/2014, wherein it was held that the statutory pre-deposit envisaged under Section 7(7) pertains only to the gratuity amount and does not extend to the interest component. Accordingly, it was observed that insistence upon deposit of interest as a condition precedent for entertaining the appeal is contrary to the statutory scheme.

13. In view of the divergent judicial opinions on the interpretation of Section 7(7), the present matter requires determination on its own merits in the light of the statutory provisions.

14. In the present case, the Controlling Authority, by order dated 14.08.2025, determined the gratuity payable at ₹20,00,000/- and further directed payment of interest at the rate of 10% per annum with effect

from 03.03.2023 till the date of actual realization. The employer preferred an appeal against the said order. However, as the appeal was not accompanied by the statutory pre-deposit contemplated under Section 7(7), it came to be dismissed on 13.12.2025. Subsequently, the appellant deposited the principal gratuity amount of ₹20,00,000/- on 01.01.2026, explaining that the delay in making the deposit was occasioned by administrative and procedural constraints.

15. The Appellate Authority, while acknowledging that the appellant had deposited a sum of ₹20,00,000/-, proceeded to reject the application seeking restoration of the appeal on the ground that only the principal gratuity amount had been deposited, whereas the interest component remained unpaid. It, therefore, concluded that there was no complete compliance with the statutory requirement and held that failure to deposit the interest amount rendered the restoration application liable to automatic dismissal. There can be no quarrel with the settled proposition that gratuity is not a bounty to be distributed at the discretion of the employer but a valuable statutory right vested in an employee. Equally well settled is the principle that culpable delay in disbursement of gratuity attracts liability to pay interest, as reiterated by the Hon'ble Supreme Court in case titled, ***"State of Uttar Pradesh & Ors Vs. Dhirendra Pal Singh",*** reported as ***(2017) 1 SCC 49***.

16. The second proviso to Section 7(7) employs the expression that the appellant shall either produce a certificate issued by the Controlling Authority certifying that an amount equal to the gratuity required to be

deposited under sub-section (4) has been deposited with it, or deposit such amount before the Appellate Authority. A plain and literal construction of the provision leaves little room for doubt that the statutory requirement is satisfied once the employer deposits an amount equivalent to the gratuity determined by the Controlling Authority. In the present case, the gratuity determined was ₹20,00,000/-, which admittedly stands deposited. The insistence by the Appellate Authority that the employer was also required to deposit the interest component, as a condition precedent for restoration of the appeal, travels beyond the express language of the statute. The disjunctive expression "or" employed in the proviso assumes significance. While the expression "such amount" may, in an appropriate factual context, admit of a broader construction, the essential statutory requirement remains the deposit of the gratuity amount determined under sub-section (4), evidenced by a certificate of the Controlling Authority or by deposit before the Appellate Authority.

17. The submission advanced on behalf of the petitioner that the requirement to deposit the interest component is merely consequential and not jurisdictional deserves acceptance. Interest follows the principal liability and cannot be equated with the statutory pre-condition governing the maintainability of an appeal. The primary obligation of the Controlling Authority under Section 7 is to determine the entitlement of the employee to gratuity and quantify the amount payable in accordance with law. The statutory scheme contemplates

determination of gratuity as the principal issue, while the liability to pay interest arises as a consequence of delayed payment.

18. Section 7(4)(a) specifically provides that where a dispute exists regarding the amount of gratuity payable or the admissibility of any claim, the employer shall deposit with the Controlling Authority such amount as is admitted by it to be payable as gratuity. Sub-section (4)(c) further empowers the Controlling Authority, upon adjudication, to direct payment of the balance amount after adjusting the amount already deposited. The statutory mandate, therefore, clearly indicates that the admitted liability towards gratuity constitutes the subject matter of the mandatory deposit, which is liable to be adjusted against the final determination made by the Controlling Authority.

19. The Division Bench of the Jharkhand High Court, while interpreting Section 7(7), did not specifically examine the significance of the disjunctive expression "or" occurring in the second proviso. Consequently, the said judgment cannot be regarded as conclusively determining the issue arising in the present case. Once the gratuity amount determined by the Controlling Authority had already been deposited, insistence upon deposit of the interest component, as a condition precedent for restoration of the appeal, resulted in serious prejudice to the appellant's statutory right of appeal. It is true that the expression "such amount" occurring in the proviso may, in a broader sense, refer to the amount determined by the Controlling Authority. Equally, Section 7(4)(d) contemplates payment by the Controlling

Authority of the amount deposited, including any excess amount, to the person entitled thereto. Nevertheless, the determination of interest is not free from dispute. The employer may legitimately challenge either the rate of interest awarded or the very entitlement to interest. If the employer is compelled to deposit the entire interest amount before the appeal can even be entertained, the statutory right of appeal, insofar as the interest component is concerned, would stand substantially diluted. Such an interpretation would defeat the legislative intent underlying Section 7(7) by rendering the appellate remedy illusory.

20. In the present case, the appellant has specifically questioned the award of interest at the rate determined by the Controlling Authority. The grievance raised in appeal extends not merely to the principal determination but also to the interest awarded thereon. Consequently, insisting upon prior deposit of the disputed interest amount, despite the gratuity amount having already been deposited, would effectively deprive the appellant of an efficacious opportunity to challenge the correctness of the order before the Appellate Authority.

21. For the foregoing reasons, this Court is of the considered opinion that the Appellate Authority committed a manifest error in insisting upon deposit of the interest component as a condition precedent for restoration of the appeal. The application before the Appellate Authority was one seeking restoration of an appeal already dismissed on account of non-compliance with the statutory requirement. Once the gratuity amount stood deposited, the Appellate Authority ought to have

examined whether sufficient grounds existed for restoration of the appeal. Hyper-technical adherence to a requirement not expressly contemplated by the statute has the effect of frustrating the valuable statutory right of appeal and cannot be sustained in law.

22. Accordingly, the impugned order passed by the Appellate Authority is set aside. Since the statutory requirement of depositing an amount equivalent to the gratuity determined by the Controlling Authority, namely ₹20,00,000/-, has admittedly been complied with, the appeal preferred by the appellant shall stand restored to its original number. The Appellate Authority shall proceed to decide the appeal afresh on its own merits, strictly in accordance with law, after affording due opportunity of hearing to all the parties concerned.

23. The writ petition is, accordingly, allowed in the aforesaid terms. All connected application(s), if any, shall also stand disposed of.

(Sanjay Parihar)
Judge

Jammu
27.07.2026
Renu

Whether the order is speaking: Yes

Whether the order is reportable: Yes