



W.P(MD)Nos.24944 and 24946 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.06.2026

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)Nos.24944 and 24946 of 2022

and

W.M.P.(MD).Nos.19044 to 19047 of 2022

W.P.(MD).No.24944 of 2022

The Commissioner,
Thoothukudi City Municipal Corporation,
Thoothukudi.

... Petitioner(s)

vs.

1.The Controlling Authority,
(The Assistant Commissioner of Labour),
Payment of Gratuity,
Thirunelveli.

2.R.Shanmugam

... Respondent(s)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order and impugned amendment order passed by the first respondent in Case No.PG.55/2016, dated 04.05.2017 and 19.06.2017 respectively and quash the same as illegal and consequently direct the second



W.P(MD)Nos.24944 and 24946 of 2022

respondent to repay the sum of Rs.1,35,442/- to the petitioner's Corporation along with interest.

W.P.(MD).No.24946 of 2022

The Commissioner,
Thoothukudi City Municipal Corporation,
Thoothukudi.

... Petitioner(s)

vs.

1.The Controlling Authority,
(The Assistant Commissioner of Labour),
Payment of Gratuity,
Thirunelveli.

2.M.Kanagaraj

... Respondent(s)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order and impugned amendment order passed by the first respondent in Case No.PG.54/2016, dated 04.05.2017 and quash the same as illegal.

In both petitions

For Petitioner

: Mr.N.Anand Kumar

For R-1

: Mr.R.Ramasamy,
Counsel for State

For R-2

: Mr.D.Srinivasaraghavan



W.P.(MD)Nos.24944 and 24946 of 2022

WEB COPY

COMMON ORDER

W.P.(MD) No.24944 of 2022 has been filed challenging the proceedings of the first respondent dated 04.05.2017 and 19.06.2017 and consequently seeking a direction to the second respondent to refund a sum of Rs.1,35,442/- to the petitioner Corporation together with interest.

2. W.P.(MD) No.24946 of 2022 has been filed challenging the order dated 04.05.2017 passed by the first respondent.

3. Since the issues involved in both the writ petitions are identical, they are heard together and disposed of by this common order.

4. The learned counsel appearing for the petitioner submitted that the second respondents in both the writ petitions were employed as Revenue Assistants in the petitioner Corporation. They joined service in the years 1970 and 1973 respectively and retired on attaining the age of superannuation after rendering about 39 years and 36 years of service.



W.P(MD)Nos.24944 and 24946 of 2022

WEB COPY5. It is the case of the petitioner that during their tenure, the second respondents failed to discharge their duties diligently and committed acts of wilful omission and negligence in the collection and levy of property tax, professional tax and water tax, resulting in substantial financial loss to the Corporation. According to the petitioner, the loss sustained by the Corporation was quantified at Rs.7,82,867/- in one case and Rs.8,57,290/- in the other. Thirty per cent of the said loss was fixed as the liability of the respective employees, amounting to Rs.2,34,861/- and Rs.2,57,187/- respectively.

6. Based on the findings of the Local Fund Audit, the petitioner Corporation withheld a sum of Rs.73,924/- in one case and Rs.94,613/- in the other from the gratuity payable to the second respondents. Aggrieved by the withholding of the gratuity amount, the second respondents filed separate applications before the first respondent under the provisions of the Payment of Gratuity Act. The first respondent, by the impugned orders, directed the petitioner Corporation to pay gratuity of Rs.1,35,442/- and Rs.2,04,047/- respectively together with interest at the rate of 10% per annum. Challenging the said orders, the present writ petitions have been filed.



W.P(MD)Nos.24944 and 24946 of 2022

WEB COPY

7. The learned counsel for the petitioner submitted that an appeal is provided under Section 7(7) of the Payment of Gratuity Act against the orders passed by the Controlling Authority. However, the petitioner could not avail the statutory remedy since the maximum period of limitation prescribed under the Act had expired.

8. It is further submitted that though notices were issued by the Controlling Authority, the same were inadvertently misplaced by certain employees of the petitioner Corporation and, therefore, the petitioner could not appear before the authority. Consequently, the impugned orders came to be passed ex parte. Pursuant to the ex parte orders, the petitioner deposited the gratuity amount as directed, except the interest component. Thereafter, the authorities initiated revenue recovery proceedings for recovery of the interest amount.

9. The learned counsel further submitted that the revenue recovery proceedings seriously prejudice the interests of the petitioner Corporation. Therefore, this Court may interfere with the impugned orders, at least insofar as



W.P(MD)Nos.24944 and 24946 of 2022

WEB COPY

the award of interest is concerned, set aside the same to that extent and remand the matter to the Controlling Authority for fresh consideration after affording an opportunity to the petitioner.

10. Per contra, the learned counsel appearing for the second respondents submitted that the writ petitions are not maintainable. He would submit that Section 7(7) of the Payment of Gratuity Act provides a complete appellate remedy against an order passed under Section 7(4) of the Act. The appeal is required to be filed within sixty days from the date of receipt of the order and the Appellate Authority is empowered to condone the delay only for a further period of sixty days on sufficient cause being shown. Thus, the maximum period available for filing an appeal is 120 days.

11. The learned counsel further submitted that the statute specifically bars the Appellate Authority from entertaining an appeal beyond the said period of 120 days. Merely because the petitioner allowed the statutory remedy to become barred by limitation, it cannot invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India to circumvent the statutory scheme.



W.P(MD)Nos.24944 and 24946 of 2022

WEB COPY

He also relied upon the judgment of this Court wherein it has been held that a writ petition cannot be entertained in such circumstances merely because the statutory appeal has become time-barred.

12. Heard the learned counsel appearing on either side and perused the materials available on record.

13. Admittedly, the impugned orders were passed by the Controlling Authority under the provisions of the Payment of Gratuity Act. Against such orders, an effective statutory appeal is provided under Section 7(7) of the Act. The provision prescribes a period of sixty days for filing the appeal and permits condonation of delay only for a further period of sixty days. Beyond the said period of 120 days, neither the Appellate Authority nor this Court can extend the limitation prescribed by the statute.

14. The explanation offered by the petitioner that the notices issued by the Controlling Authority were misplaced by its employees cannot be a ground to bypass the statutory remedy. If such a contention is accepted, every litigant who



W.P(MD)Nos.24944 and 24946 of 2022

has allowed the statutory period of limitation to expire would seek to invoke the writ jurisdiction of this Court, rendering the statutory limitation meaningless.

15. It is well settled that where an effective statutory remedy is available, a writ petition would not ordinarily be entertained. More particularly, when the statutory remedy has become barred by limitation due to the inaction of the petitioner, the extraordinary jurisdiction under Article 226 of the Constitution cannot be invoked to revive a remedy that has been lost by operation of law.

16. In the present case, no exceptional circumstance has been made out warranting interference under Article 226 of the Constitution of India. This Court, therefore, is not inclined to entertain the writ petitions.

17. Accordingly, both the writ petitions stand dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

30.06.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes
TSG

8/10



W.P(MD)Nos.24944 and 24946 of 2022

WEB COPY

To
The Controlling Authority,
(The Assistant Commissioner of Labour), Payment of Gratuity,
Thirunelveli.



WEB COPY



W.P(MD)Nos.24944 and 24946 of 2022

M.DHANDAPANI,J.

TSG

**COMMON ORDER MADE IN
W.P(MD)Nos.24944 and 24946 of 2022**

DATED : 30.06.2026

10/10