

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.36775 of 2015

The Managing Director
Vellore T.V.Malai District Milk
Producers Cooperative Union,
Vellore 602 009.

...Petitioner

Vs.

1. The Joint Commissioner of Labour
[Appellate Authority under the Payment
of Gratuity Act, 1972]
DMS Compound, Thenampet, Chennai-6.
2. The Assistant Commissioner of Labour
[Controlling Authority under the Payment
of Gratuity Act, 1972],
O/o.The Deputy Commissioner of Labour,
DMS Compound
Thenampet, Chennai-6.

3. E.Kannabiran

...Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari calling for the records pertaining to the order passed in No.E/3167/15 dated 12.8.2015 by the 1st respondent and the order passed in P.G.No.206/2009 dated 09.12.2014 passed by the 2nd respondent, quash the same.

For Petitioner : Mr.S.Anbazhagan

For RR 1 and 2 : Mr.R.Rajeswaran, Spl.GP

ORDER

Heard the learned counsel for the petitioner and Mr.R.Rajeswaran, learned Special Government Pleader accepting notice on behalf of the respondents 1 and 2 and with their consent, the writ petition is taken up for final disposal. Since the writ petition is disposed of at the admission stage, notice to the 3rd respondent is dispensed with.

2 The petitioner has filed this writ petition challenging the order passed by the 1st respondent dated 12.08.2015 in and by which, the appeal petition filed by the petitioner against the order passed by the 2nd respondent in P.G.No.206/2009 dated 09.12.2014, was rejected on the ground that the appeal petition has been presented beyond the period of limitation.

3 Learned counsel for the petitioner submits that the impugned order of rejection of the petitioner's appeal petition is erroneous and the 1st respondent, without even entertaining the application for condonation of delay, has rejected the appeal petition.

4 On a perusal of the impugned proceedings, it is seen that the appeal petition has not been rejected, but it has been returned on the ground that it is filed beyond the period of limitation. Therefore, the proper procedure to be followed by the petitioner is to represent the appeal along with a petition and affidavit seeking for condonation of delay and setting out the reasons for not being able to file the appeal within the time permitted. If such a course is adopted, the Appellate Authority is bound to consider the appeal petition at the first instance and if the Appellate Authority is satisfied with the reasons assigned and the petitioner has shown sufficient cause for not being able to prefer the appeal within the period of limitation, may condone the delay and proceed in accordance with law. However, even at that stage, the 3rd respondent/workman has to be heard by the Appellate Authority.

5 In the light of the above, without setting aside the impugned proceedings, the petitioner is directed to represent the appeal petition along with an application to condone the delay and if the same is represented, the 1st respondent shall issue notice to the petitioner and the 3rd respondent in the delay petition, hear the parties and pass reasoned order on

merits and in accordance with law.

6 The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Joint Commissioner of Labour
[Appellate Authority under the Payment
of Gratuity Act, 1972]
DMS Compound, Thenampet, Chennai-6.
 2. The Assistant Commissioner of Labour
[Controlling Authority under the Payment
of Gratuity Act, 1972], O/o.the Deputy
Commissioner of Labour, DMS Compound
Thenampet, Chennai-6.
- 1 CC to Mr.S.Anbazhagan, Advocate SR.No. 62560
- 1 CC to the Government Pleader, SR.No. 62927

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WP.No.36775/2015

MSM (CO)
PSI (26.11.2015)

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