

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.5974 of 2015 &
M.P.No. 1 of 2015

M/s.Mettur Spinning Mills Ltd. [PETITIONER]
Rep. by its Directors K.N.Krishnasamy
P.T.Srinivasan

Vs

- 1 The Appropriate Authority
(Under the Payment of Gratuity Act)
Assistant Commissioner of Labour (Incharge)
Salem.
- 2 P.Ramasamy [RESPONDENTS]

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of certiorari to call for the records in PG IA No.68 of 2014 on the file of the 1st respondent herein and quash the impugned order dated 27.10.2014 in PG IA No.68 of 2014.

For Petitioners : Mr.D.Abdullah

For Respondents : Mr.R.Rajeswaran-R1
Spl.Govt. Pleader

Mrs.S.Girija - R2

WEB COPY

O R D E R

By consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2. Heard Mr.D.Abdullah, learned Counsel appearing for the petitioner, Mr.R.Rajeswaran, learned Special Government Pleader appearing for the first respondent and Mrs.S.Girija, learned counsel appearing for the second respondent.

3.The petitioner Management has challenged the order passed by the first respondent Authority exercising the powers under Payment of Gratuity Act and condoning the delay in filing the application for Gratuity as filed by the first respondent.

4.Two grounds are urged by the learned counsel for the petitioner in assailing the impugned order. Firstly, by contending that the delay is more than 2000 days and it is inordinate. Secondly, it is submitted that the first respondent passed the impugned proceedings without even hearing the petitioner.

5.So far as the second ground is concerned, on a perusal of the impugned order it is seen that the matter was heard on 27.10.2014 and the authorities were represented by counsel including the petitioner who has been represented by the counsel who is also appearing in the present Writ Petition. Therefore, the finding recorded by the first respondent cannot be doubted. Accordingly, the second ground raised by the petitioner stands rejected.

6.With regard to the first ground is concerned, the petitioner would state that the delay has not been properly explained. The second respondent workman would state that Form-I submitted by him claiming his gratuity through the Union has not been considered and the claim was not settled. Further, it is admitted that there was a Settlement under section 12(3) of the Act with the Union and the present Management, appears to be the persons who have taken over the Management subsequently.

7.In any event, the question as to whether the second respondent is entitled for payment of gratuity, whether he is an employee of the erstwhile Management of the petitioner and all other matters connected therewith are factual matters which can be adjudicated by the first respondent. That apart, the petitioner Management have not exhausted the appeal remedy under the Act, as against the impugned order.

8.Hence, for the above reasons, this Court is not inclined to interfere with the impugned on both the grounds raised by the petitioner. Accordingly, the Writ Petition stands dismissed. However, petitioner is entitled to canvass all points before the authority, which shall be considered by the authority on merits

and in accordance with law, uninfluenced by any observation made in this order. No costs. Consequently, connected Miscellaneous Petition is closed.

sd/
ASSISTANT REGISTRAR (CO)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

rpa

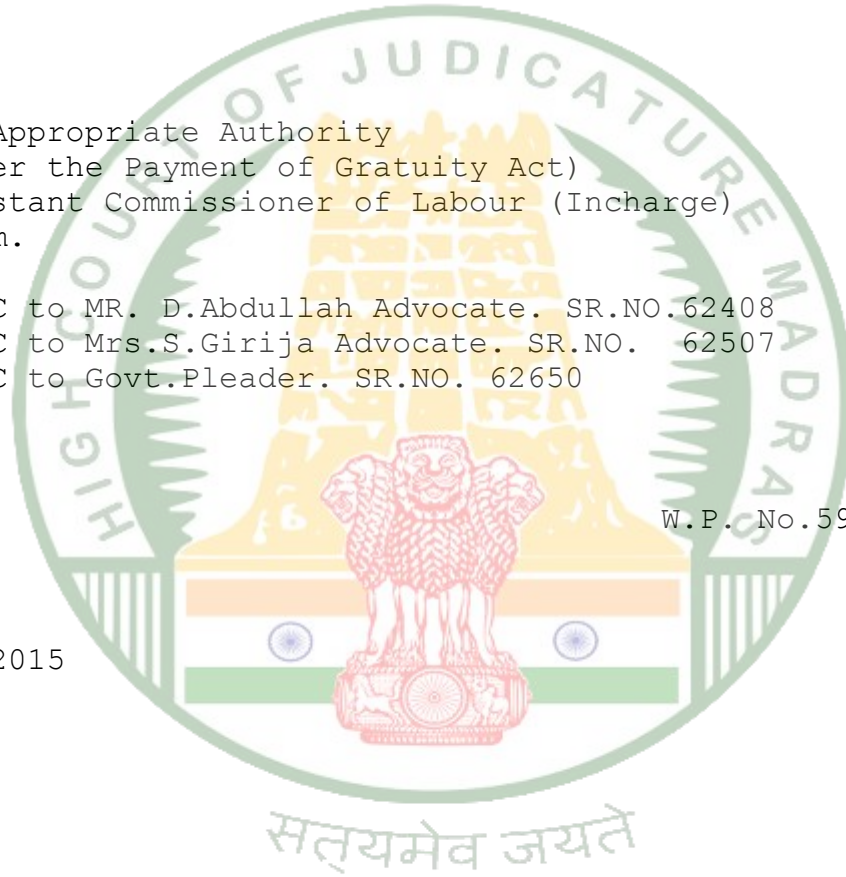
To

1 The Appropriate Authority
(Under the Payment of Gratuity Act)
Assistant Commissioner of Labour (Incharge)
Salem.

+1 CC to MR. D.Abdullah Advocate. SR.NO.62408
+1 CC to Mrs.S.Girija Advocate. SR.NO. 62507
+1 CC to Govt.Pleader. SR.NO. 62650

W.P. No.5974 of 2015

CO-SKV
JD 27/11/2015



WEB COPY