

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P. No.23677 of 2016
and W.M.P.No.20272 of 2016

The Management

No.K.1434,

Senjeri Malayadipalayam,

Formers Co-operative Society Ltd.,

Rep.by its Secretary

... Petitioner

Vs.

1.The Joint Commissioner of Labour/
Appellate Authority under the Payment
of Gratuity Act, 1972

O/o. Deputy Commissioner of Labour,
Dr.Balasundaram Road,
Coimbatore - 18.

2.The Assistant Commissioner of Labour/
Authority under the Payment of Gratuity
Act, 1972.

O/o. Deputy Commissioner of Labour,
Dr.Balasundaram Road,
Coimbatore - 18.

3.A.Subramaniam

...Respondents

PRAYER : Writ petition filed under Article 226 of the
Constitution of India for issue of writ of certiorari calling
for the records relating to the docket order of the first
respondent in a.thi.mu 4129/2015 dated 26.08.2015 and quash the
same as illegal, arbitrary and unconstitutional and also in
violation of principles of natural justice.

For Petitioner : Mr.S.Jayaseelan

For R1 & R2 : Mr.V.Jayaprakash Narayanan
Special Govt. Pleader.

O R D E R

The petitioner/Management has come before this Court
aggrieved by the order of the second respondent dated 26.08.2015
passed under Gratuity Act for payment of gratuity to the third
respondent.

2. According to the petitioner, the third respondent, after enquiry was dismissed from the services. Thereafter, the third respondent was re-instated with 50% back wages and relieved from services on attaining superannuation. Since a sum of Rs.11,124/- towards as balance gratuity has not been paid by the petitioner to the third respondent, he moved the second respondent who passed an order in G.A.No.330/2013 dated 09.01.2015 directing the petitioner to pay the balance of gratuity amount alongwith interest as it was not paid in time.

3. Aggrieved over the same, the petitioner preferred appeal before the first respondent who is the appellate authority alongwith a delay of 78 days. The appeal was returned stating that the same was barred by limitation. The said order is being challenged before this Court.

4. Heard Mr.S.Jayaseelan, learned counsel appearing for the petitioner and Mr.V.Jayaprakash Narayanan, learned counsel appearing for the first and second respondents.

5. As per Section 7 (7) of the Payment of Gratuity Act, 1972 , the period of limitation is sixty (60) days filing appeal and another sixty days time is granted for filing appeal alongwith delay. In the case on hand, the appeal has been preferred by the petitioner beyond the period of 120 days, i.e with a delay of 78 days. When the statute prescribes limitation, the same has to be followed scrupulously. The general law of limitation act will not be applicable to the facts of the case as the statute itself speaks about limitation. Therefore, the first respondent has rightly returned the condone delay application of the petitioner as it is barred by limitation and the order of the first respondent in a.thi.mu.4129/2015 dated 26.08.2015 does not require any interference by this Court.

6. In the result, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rgr

To

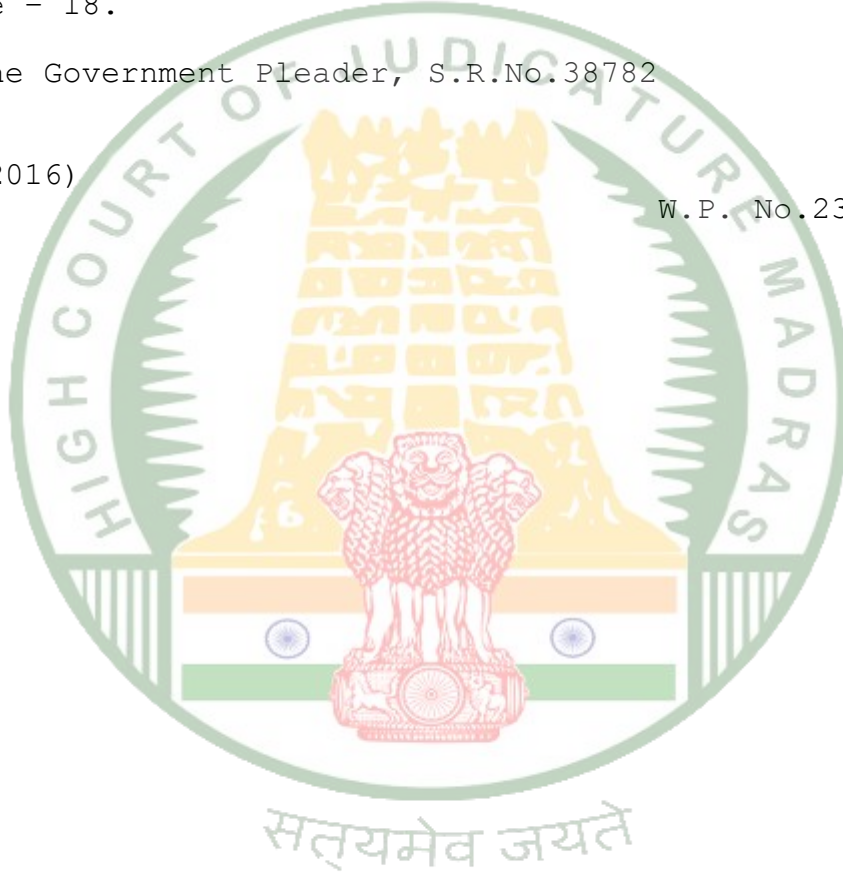
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2.The Assistant Commissioner of Labour/
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Dr.Balasundaram Road,
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+1cc to the Government Pleader, S.R.No.38782

NRJK (CO)
EU(01/08/2016)

W.P. No.23677 of 2016



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