

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2016

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 26273 of 2016

&

W.M.P. No. 22527 of 2016

The Management of
Metro Transport Corporation
(Chennai) Ltd.,
Pallavan House, Anna Salai,
Chennai - 600 002.

...Petitioner

Vs.

1. C. Mani

2. The Assistant Commissioner of Labour -I,
DMS Complex, I Floor,
Teynampet, Chennai - 600006.

3. The Joint Commissioner of Labour-I,
DMS Complex, VI Floor,
Teynampet,
Chennai 600 006.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India
praying for issue of a Writ of Certiorari to call for the
records pertaining to the rejection order No.Wa.Ka. No.
E/2239/16 dated 08.06.2016 on the file of the 3rd respondent
herein and quash the same.

For Petitioner :: Mr.M. Chidambaram

For Respondents:: Ms.T. Girija,
Govt. Advocate for R2 & R3

O R D E R

The Management of Metro Transport Corporation (Chennai)
Limited has filed the present writ petition challenging the order
of rejection dated 08.06.2016 passed by the 3rd respondent,
rejecting the appeal papers filed by the petitioner on the ground
of limitation.

2. The 1st respondent is an employee of the petitioner Management and he was imposed with penalty, pursuant to the disciplinary proceedings initiated due to certain misconduct, to the tune of Rs.28,946/-. Thereafter, the 1st respondent retired from service under Voluntary Retirement Scheme on 31.12.2011. Though all the benefits were paid to the 1st respondent, a sum of Rs.28,946/-, which was due from him, was deducted from the Gratuity Amount payable to him. Without raising any objection, the 1st respondent received the amount and thereafter, he filed Payment of Gratuity Petition No. 98 of 2013 before the Assistant Commissioner of Labour I, Chennai - 6 and by order dated 28.08.2014, the said authority, directed the petitioner to pay Rs.28,946/- with interest @ 10% per annum from the date of retirement of the petitioner till the date of payment. As against the said order, the petitioner preferred an appeal before the Appellate Authority, namely, the Joint Commissioner of Labour I, Chennai, along with a petition to condone the delay of 557 days in preferring the appeal. By order dated 08.06.2016, the 3rd respondent rejected the appeal papers on the ground that it was filed beyond 120 days, ie. beyond the period of limitation prescribed under Section 7(7) of Payment of Gratuity Act, 1972. The said order is being challenged before this Court.

3. Heard Mr. M. Chidambaram, learned counsel for the petitioner and Ms.T. Girija, learned Government Advocate for respondents 2 and 3.

4. The Payment of Gratuity Act, 1972, is a comprehensive Act and the period prescribed for filing an appeal as against the order of the Gratuity Authority, under Section 7(7) of the said Act, is 60 days and a further time of 60 days is provided along with a condone delay petition. When the said Act categorically speaks about the period of limitation, the General Law of Limitation, will not be applicable. Therefore, the authority has got no other option except to reject the appeal filed beyond the period of limitation, namely, 557 days and the said order cannot be found fault with. It is well-settled by the Honourable Apex Court that when there is a time limit stipulated specifically under the statute, Article 226 of the Constitution of India cannot be invoked. Hence, the writ petition fails and the same is dismissed. However, it is open to the petitioner to recover the money from the 1st respondent in the manner known to law. No costs.

s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

To

1. The Assistant Commissioner of Labour -I,
DMS Complex, I Floor,
Teynampet, Chennai - 600006.
2. The Joint Commissioner of Labour-I,
DMS Complex, VI Floor,
Teynampet,
Chennai 600 006.

+1 cc to Mr.M.Chindambaram Advocate sr.42768

+1 cc to Government Pleader sr.43055

W.P. No. 26273 of 2016

aa11/08/2016



WEB COPY