

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15-12-2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.20974 of 2014

The Management,
Tamil Nadu State Transport Corporation Ltd.,
(Salem Division),
Dharmapuri Regional,
Bharathipuram,
Dharmapuri-5 Represented by
its General Manager. ...Petitioner

-vs-

1. The Appellate Authority,
(Under Payment of Gratuity Act, 1972)
(O/o.Joint Commissioner of Labour),
Coimbatore-18.
2. The Controlling Authority,
(Under Payment of Gratuity Act, 1972)
(O/o.Assistant Commissioner of Labour),
Salem.
- 3.S.Subramanian
- 4.V.Pachalingam
- 5.P.Arumugam
- 6.P.Kaliappan
- 7.R.Govindharaj
- 8.P.Francis
- 9.K.Kaveri
- 10.R.Saminathan
- 11.S.Sadasivam
- 12.D.G.Saidyunoos

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13.S.A.Saffi

14.A.Balaraman

15.I.Basha

16.K.Pandurangan

17.G.Jeyakumar

18.T.Parasuraman

19.K.C.Krishnamurthy

20.K.Kumar

21.C.Mohan

22.P.Mohan

23.A.Marimuthu

24.K.Mani

25.C.Murugesan

(R-3 to R-25 are at the C/o.Pon.Ramani,
Advocate, No.44A, Mariamman Koil Street,
Balaji Avenue, Hasthampatty, Salem-7)

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent in ND's 3048/14 dated 16.6.2014 and to quash the same and consequently direct the first respondent to take the Appeal.

For Petitioner - Mr.P.Paramasiva Doss

For Respondents 1 and 2 - Court

For Respondents 3, 4, 6,
9, 14, 15, 18, 19, 21, 23

and 25 - Mr.R.M.D.Nasrullah

For Respondents 5, 7, 8, 10,
11, 12, 13, 16, 17, 20, 22

and 24 - No Appearance

ORDER

The order of the first respondent issued in ND's 3048/14 dated 16.6.2014, is under challenge in this writ petition. The management of the Tamil Nadu State Transport Corporation of Salem Limited, is the writ petitioner.

2. The grievances of the writ petitioner is that they have preferred an appeal before the Joint Commissioner of Labour under the provisions of the Payment of Gratuity Act, 1972. However, there is a delay in filing the appeal. Thus, the Appellate Authority, namely, the Joint Commissioner of Labour, Coimbatore, returned the appeal papers on the ground that the appeal has been filed on 2.4.2014, which is beyond 120 days from the date of receipt of the order. On this ground, the Appellate Authority returned the papers and the writ petitioner has moved the present writ petition before this Court.

3. The learned counsel, appearing on behalf of the respondents, opposed the contentions of the learned counsel for the writ petitioner, by stating that the appeal was filed belatedly and therefore, the Appellate Authority has rightly returned the papers to the writ petitioner and there is no infirmity in the order.

4. This Court is of the opinion that the right of appeal under the Payment of Gratuity Act, is a statutory one and the writ petitioner has to be provided with an opportunity to adjudicate the issues on merits before the Appellate Authority. No doubt, the appeal is filed beyond 120 days from the date of receipt of the copy of the order. However, in the interest of justice, the delay is to be condoned and the Appellate Authority is to be permitted to proceed with the appeal, on merits and in accordance with law, by providing an opportunity to the parties concerned.

5. In this view of the matter, the order impugned in this writ petition passed by the first respondent in ND's 3048/14 dated 16.6.2014, is quashed and the first respondent is directed to take the appeal on file and number the same and proceed with the hearing of the appeal on merits and in accordance with law, by affording opportunities to all parties concerned and pass orders, within a period of twelve weeks from the date of receipt of a copy of this order.

6. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

Svn

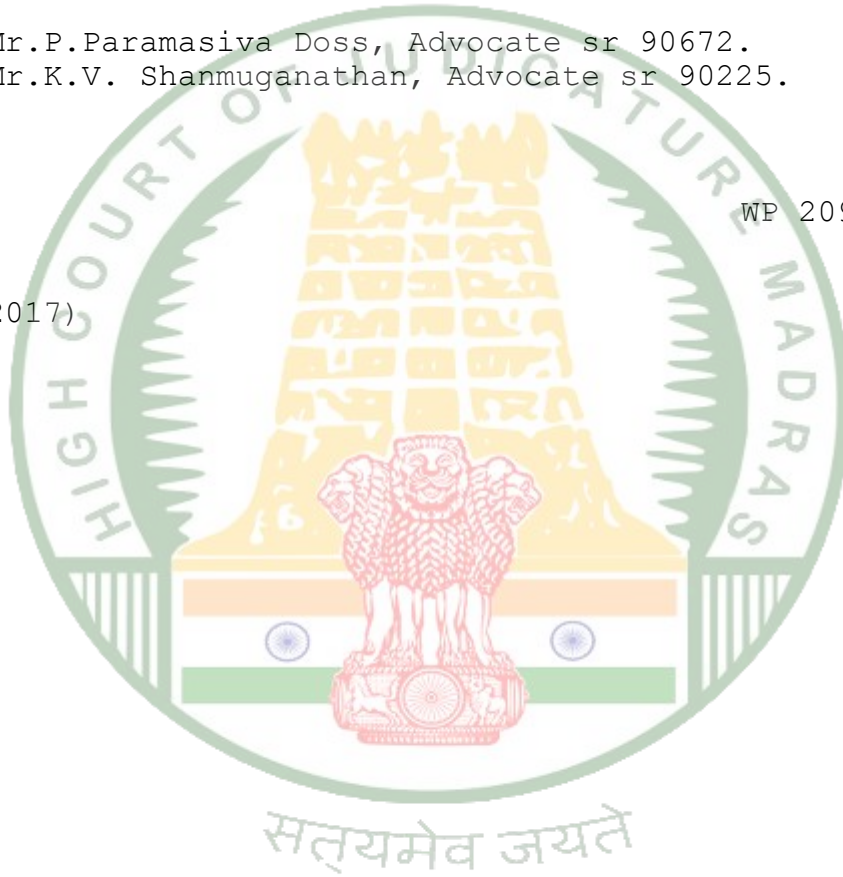
To

1. The Appellate Authority,
(Under Payment of Gratuity Act, 1972)
(O/o.Joint Commissioner of Labour),
Coimbatore-18.
2. The Controlling Authority,
(Under Payment of Gratuity Act, 1972)
(O/o.Assistant Commissioner of Labour),
Salem.

+1 CC to Mr.P.Paramasiva Doss, Advocate sr 90672.
+1 CC to Mr.K.V. Shanmuganathan, Advocate sr 90225.

WP 20974 of 2014

SP(21/12/2017)



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