

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.08.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE M.GOVINDARAJ**

C.R.P.(PD) No.2491 of 2017
and
C.M.P.No.11801 of 2017

The Transport Corpn. Employees Co.Op.
Thrift and Credit Society Ltd., ...Petitioner

Vs.

1.S.J.Amarendra

2.The Managing Director,
Metropolitan Transport Corporation,
(Chennai) Ltd., Pallavan Illam,
Anna Salai,
Chennai 600 002. ... Respondents

Prayer: Civil Revision Petition has been filed under Article 227 of the Constitution of India to set aside the order passed in P.G.I.A.No.195 of 2014 passed by Assistant Commissioner Labour, Chennai, condoning the delay of 842 days in filing the petition under payment of Gratuity Act.

For Petitioner : Mr.S.Y.Eswaran

ORDER

The Civil Revision Petition is filed against the order passed in PG.I.A.No.195 of 2016 by the Assistant Commissioner of Labour, the Controlling Authority (Authority as Under Payment of Gratuity

Act, 1972) on 06.10.2016. For setting aside the same, the society has filed an appeal.

2.The grievance of the petitioner is that the authority has failed to see that the petitioner society is registered under Tamil Nadu Co-operative Societies Act and exempted from the payment of Gratuity Act and the authority has no jurisdiction nor is a competent authority to grant any relief to the second respondent, which is not sustainable either in law or on facts.

3.The delay was not properly explained. The High court has directed the petitioner to file a petition Under Co-operative Societies Act and not under payment of Gratuity Act. The petition is liable for non-joinder of parties.

4.Whereas the respondent employee sought for condoning the delay on account of approaching a wrong forum. The Hon'ble High Court while disposing of the Writ Petition has given a direction to condone the delay on account of pendency of the Writ Petition. Hence the delay shall be condoned.

5. Heard the submissions.

6.The payment gratuity due to the first respondent was adjusted for the outstanding of his co-employee. The first respondent in order to redress his grievances has approached this court by way of W.P.No.28619 of 2012. This Court while disposing of the Writ Petition has observed as under:

"In these circumstances, I am of the view that the petitioner could approach the Authority constituted under the Act for his efficacious remedy instead of filing writ

petition under Article 226 of the Constitution of India if there is any delay on the part of the petitioner in approaching the concerned authority, i.e. The time stipulated in the respective Acts for making application, the same shall be condoned taking into account the pendency of the writ proceedings before this Court and the Authorities are directed to decide the same on merits."

7. In compliance with the order passed by the High Court, the authority under the Act has condoned the delay. Whether the petition is maintainable under Payment of Gratuity Act or under Co-operative Societies Act and whether the petition is liable to be dismissed for non-joinder of parties and limitation are the matters to be decided at the time of disposal of the petition on merits.

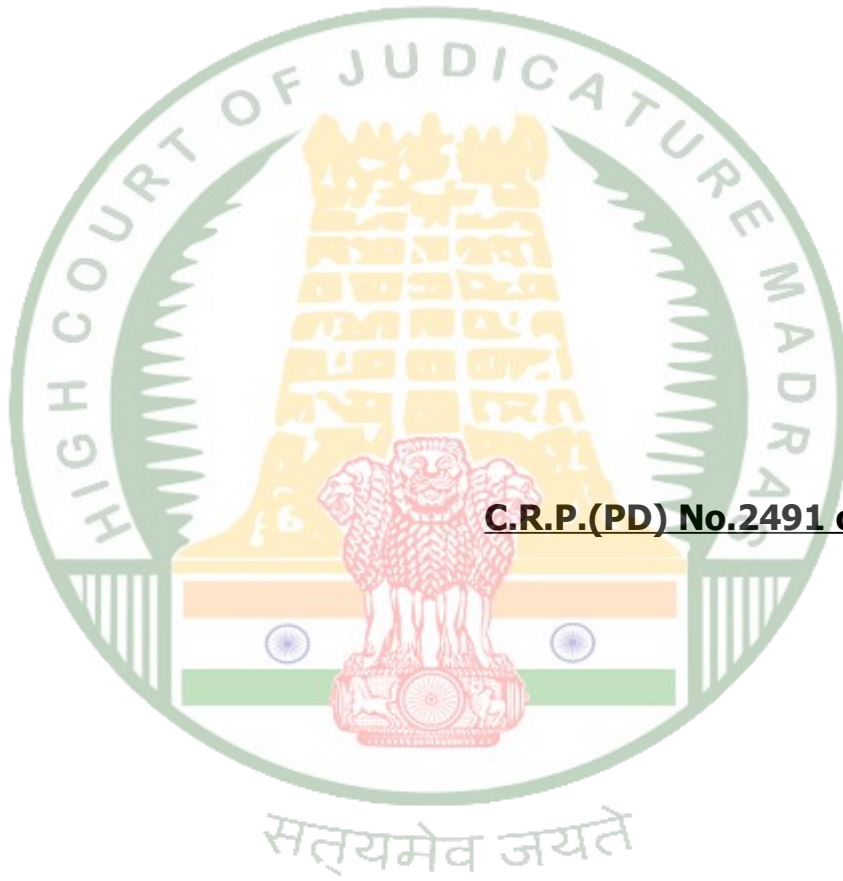
8. Therefore the order passed by the authority in condoning the delay of 842 days in filing the petition under Payment of Gratuity Act in very much in order and suffers no infirmity.

9. The Civil Revision Petition merits no consideration and dismissed accordingly. No costs.

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M.GOVINDARAJ., J.
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