

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 23.12.2016

Delivered on: 03.1.2017

CORAM

THE HONOURABLE THIRU JUSTICE V. PARTHIBAN

W.P.No.38898 of 2002

The Management of Coimbatore,
District Central Co-operation Bank Ltd.,
State Bank of India Road,
Coimbatore-641 018 Petitioner

vs

1. The Joint Commissioner of Labour/
Appellate Authority under the
Payment of Gratuity Act,
O/o Deputy Commissioner of Labour,
Coimbatore-641 018.

2. M.Murugesan Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, to direct the first respondent herein to take on his file the memorandum of appeal filed by the petitioner herein against the order dated 25.6.2001 passed by the Assistant Commissioner of Labour in G.A.No.217 of 2000 and consequently conduct enquiry and then to pass orders on merits.

For petitioner : Mr.S.Saravanan

For respondent 1: Mr.M.Dig Vijaya Pandian, AGP

For respondent 2: Mr. C. Prakasam

ORDER

This Writ Petition has been filed by the petitioner against the order of the first respondent dated 29.12.2001 rejecting the appeal filed by the writ petitioner Management on the ground of delay.

2. The second respondent who was an employee of the first respondent Management, approached the Gratuity Authority by way

of filing an application in G.A.No.217 of 2000 for payment of gratuity. The said Gratuity Application was allowed by the Authority constituted under the Gratuity Act on 25.6.2001. Against the order of the original authority, an appeal was preferred by the petitioner Management on 24.12.2001 with the delay of 117 days. By the impugned order dated 29.12.2001, the said appeal came to be rejected on the ground that as per the provisions of the Gratuity Act, the Authority vested with the discretion only to condone the delay of 60 days after the expiry of the prescribed period. In such view of the matter, the appeal was not entertained since there was a statutory bar in entertaining the appeal beyond the above said period. As against the same, the present writ petition has been filed.

3. Heard the learned counsel appearing for the parties and perused the materials available on record.

4. Learned counsel appearing for the petitioner would submit that in spite of the reasons stated in the appeal for condonation of delay, without consideration of the same, the appeal was rejected.

5. Per contra, the learned counsel for the respondent would submit that beyond the the expiry of the stipulated period of 60 days, within which, the appeal had to be filed, the Authority had no jurisdiction to entertain the same in view of the statutory bar. In the circumstances, the appeal was rightly rejected and this Court cannot extend the period of limitation prescribed in the statute.

6. In view of the submissions, this Court is of the view that once the Statute prescribed a time limit for condonation of delay, this Court, exercising jurisdiction under Article 226 of the Constitution, cannot, in its discretion, extend the period of limitation prescribed in the statute. Therefore, the prayer sought for in this Writ Petition, to direct the first respondent to take up the appeal and dispose of the same, cannot be granted.

Accordingly, the Writ Petition fails and it is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

suk

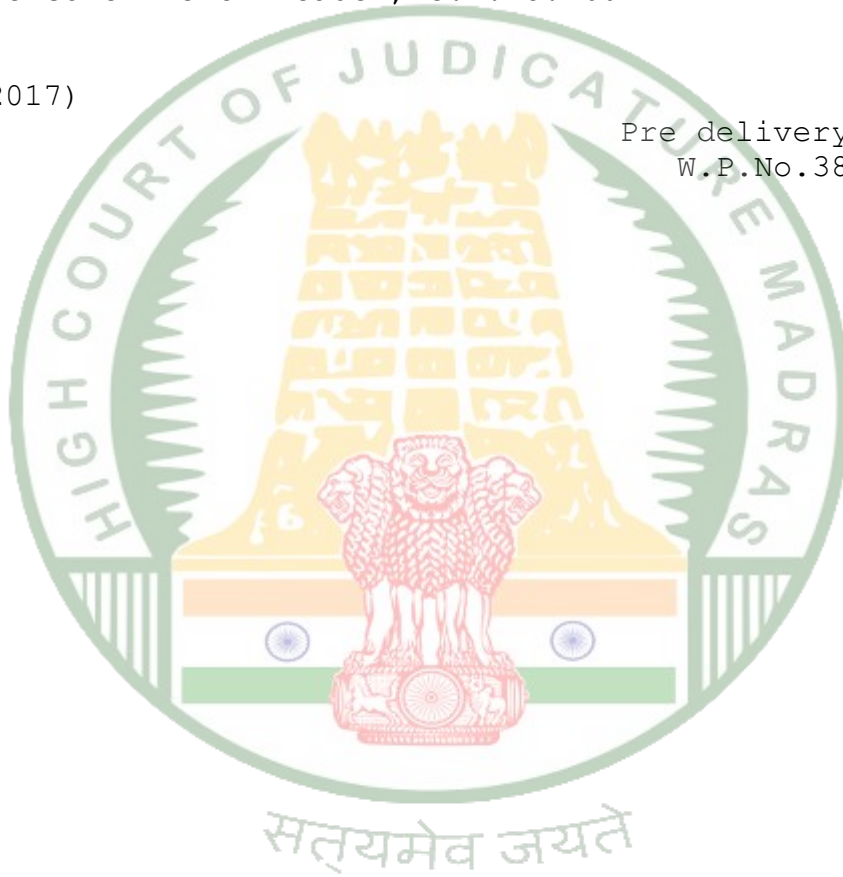
To

The Joint Commissioner of Labour/
Appellate Authority under the
Payment of Gratuity Act,
O/o Deputy Commissioner of Labour,
Coimbatore-641 018.

+1cc to Mr.Saravanan, Advocate, S.R.No.714
+1cc to Mr.Prakasam, Advocate, S.R.No.725
+1cc to the Government Pleader, S.R.No.760

GJ(CO)
RS(19/01/2017)

Pre delivery order in
W.P.No.38898 of 2002



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