

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.NO.21577 of 2004
and
W.M.P.No.26093 of 2004

The Commissioner
Dharmapuri Municipality
Dharmapuri - 636 007.

..Petitioner

Vs.

1. The Joint Commissioner of Labour /
Appellate Authority under Payment of Gratuity Act
Coimbatore.
2. Assistant Commissioner of Labour /
Controlling authority under Payment of Gratuity Act
Salem.
3. C.Krishnan

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent in I.A.No.1 of 2004 dated 23.3.2004 and quash the same and to direct the first respondent to consider and pass orders on merits on I.A.No.1 of 2004.

For Petitioner : No appearance
For Respondents : Mr.S.Soundhararajan,
Government Advocate
- for Respondents 1 and 2
Mr.S.Ayyathurai - for R3

O R D E R

This writ petition is filed, seeking to quash the order passed by the first respondent in I.A.No.1 of 2004 dated 23.03.2004 and to direct the first respondent to consider and pass orders in I.A.No.1 of 2004.

2. The impugned order in I.A.No.1 of 2004 has been passed on 23.03.2004. Challenging the order passed by the controlling

authority under the Payment of Gratuity Act, the appeal was filed under Section 7(7) of the Payment of Gratuity Act along with an application to condone the delay of 215 days.

2.1. The appellate authority, has pointed out that there is no provision to condone the delay beyond the period of 60 days. Time limit for presentation of appeal is 60 days and further time of 60 days is permitted provided there is sufficient cause for the delayed filing. The appellate authority has also quoted the provisions of Section 7(7) of the Payment of Gratuity Act, which reads as under:

" 7(7) : Any person aggrieved by an order under Sub Section (4) may, within 60 days from the date of receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf.

Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days."

3. A mere reading of the provision would go to show that the initial period of filing the appeal is 60 days and thereafter the delay can be condoned only to the extent of another 60 days, provided there is sufficient cause. Therefore, the outer time limit for filing the appeal is only 120 days.

3. Admittedly, the appeal has been filed with a delay of 215 days, which cannot be condoned and the appellate authority has also no power to condone the delay beyond that period. Therefore, the appellate authority has rightly rejected the application on the ground that he has no authority to condone the delay. Therefore, the order passed by the first respondent cannot be interfered with and the writ petition is dismissed. No costs. Consequently, connected W.M.P. is closed.

Kst

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

To

1. The Joint Commissioner of Labour /
Appellate Authority under Payment of Gratuity Act
Coimbatore.
2. Assistant Commissioner of Labour /
Controlling authority under Payment of Gratuity Act
Salem.

+1cc to Mr.S.Ayyathurai, Advocate S.R.No.66813

+1cc to the Government Pleader, S.R.No.67840

KR/8/11/18

W.P.No.21577 of 2004



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