

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11-04-2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.38150 of 2016

K.Shankar

.. Petitioner

Vs.

1. Controlling Authority under the Payment of Gratuity Act, 1972 (The Assistant Labour Commissioner (Central), Office of the Dy. Chief Labour Commissioner, (Central), No.4, Haddows Road, Shastri Bhavan, Chennai-600 006.

2. The Management of Indian Bank, Corporate Office, Avvai Shanmugam Salai, Royapettah, Chennai-600 014.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Mandamus, directing the first respondent to take up application filed by the petitioner on 27.1.2016 for restoring G.A.No.27/2012 which was dismissed for default on 20.1.2016 and to dispose of the same on merits and in accordance with law.

For Petitioner : Mr.K.M.Ramesh

For Respondent-1 : No Appearance

For Respondent-2 : Mr.G.Anand for M/s.T.S.Gopalan and Co.

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O R D E R

The relief sought for in this writ petition is for a direction to direct the first respondent to take up the application filed by the writ petitioner on 27.1.2016 for restoration of G.A.No.27/2012, which was dismissed for default on 20.1.2016.

2. Though the learned counsel appearing on behalf of the second respondent, has no serious objection in respect of restoration, made a submission that the petitioner is not entitled to claim interest for the interregnum period from the date of dismissal of Gratuity Appeal on default and to the date of restoration of the petition, this Court is of an opinion that the writ petitioner is not entitled to claim interest from the date of the dismissal of G.A.No.27 of 2012 for default and up to the date of restoration of the said Gratuity Appeal. In respect of the remaining period, the interest as applicable under law can be considered by the appropriate Court.

3. This Court is of an opinion that all the cases filed under the Payment of Gratuity Act, 1972 are to be adjudicated and a final decision is to be taken. The payment of gratuity is the livelihood of the workmen and the benefit cannot be denied on account of the fact that the petition is dismissed for default. The Courts have to be lenient in respect of dealing with such petitions filed for restoration. If there is no undue delay on the part of the workmen in filing such petitions, the same is to be considered leniently.

4. In this view of the matter, the first respondent is directed to take up the application filed by the writ petitioner on 27.1.2016 for restoration of G.A.No.27 of 2012 and dispose of the same, within a period of six weeks from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Controlling Authority under the Payment of Gratuity Act, 1972
(The Assistant Labour Commissioner (Central),
Office of the Dy. Chief Labour Commissioner,
(Central), No.4, Haddows Road,
Shastri Bhavan, Chennai-600 006.

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2. The Management of Indian Bank,
Corporate Office,
Avvai Shanmugam Salai,
Royapettah, Chennai-600 014.

+1cc M/s.T.S.Gopalan and Co. sr.no.26977
+1cc to Mr.K.M.Ramesh, Advocate in sr.no.26889

W.P.No.38150 of 2016

PVS (Co)
CS/26/04/18



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