



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:27.02.2018

CORAM:

THE HONOURABLE **MR. JUSTICE G.R.SWAMINATHAN**

W.P.(MD)Nos.8005 to 8008 of 2017

and

W.M.P(MD)Nos.6185 to 6189 of 2017

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W.P(MD)No.8005 of 2017

The Management of Geethanjaly Mills Ltd.,
Sri Gomathipuram Post,
Sankarankovil,
Tirunelveli District,
rep. by its Managing Director,
P.R.Ramasubramania Raja

... Petitioner

Vs.

- 1.The Appellate Authority,
Under Payment of Gratuity Act, 1972,
(Joint Commissioner of Labour)
Office of the Joint Commissioner of Labour,
Madurai.
- 2.The Learned Controlling Authority,
Under Payment of Gratuity Act, 1972,
(Assistant Commissioner of Labour),
Office of the Deputy Commissioner of Labour,
Tirunelveli.

3.Sri.S.K.Ganesan

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent herein in his proceedings in Athimu/E/656/17, dated 13.03.2017 and the proceedings of the second respondent herein in his proceedings in Aa.2/318 to 321/2017, dated 17.02.2017 and also the order passed by the second respondent herein in his proceedings in PG(IA) No.78/2014, dated 25.04.2016 and quash the same and consequently direct the second respondent herein to take the condone delay petition to set aside the exparte order dated 25.04.2016 and decide the same on merits and in accordance with law.



For Respondents

: Mr.S.Mandhiralingeswaran
for R3

No Appearance for R1 and R2

W.P(MD)No.8006 of 2017

The Management of Geethanjaly Mills Ltd.,
Sri Gomathipuram Post,
Sankarankovil,
Tirunelveli District,
rep. by its Managing Director,
P.R.Ramasubramania Raja

... Petitioner

Vs.

- 1.The Appellate Authority,
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- 2.The Learned Controlling Authority,
Under Payment of Gratuity Act, 1972,
(Assistant Commissioner of Labour),
Office of the Deputy Commissioner of Labour,
Tirunelveli.

3.Sri.P.Thangam

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent herein in his proceedings in Athimu/E/657/17, dated 13.03.2017 and the proceedings of the second respondent herein in his proceedings in Aa.2/318 to 321/2017, dated 17.02.2017 and also the order passed by the second respondent herein in his proceedings in PG(IA) No.76/2014, dated 25.04.2016 and quash the same and consequently direct the second respondent herein to take the condone delay petition to set aside the exparte order dated 25.04.2016 and decide the same on merits and in accordance with law.

For Petitioner

: Mr.M.Ilanchezhian

For Respondents

: Mr.S.Mandhiralingeswaran
for R3

No Appearance for R1 and R2

The Management of Geethanjaly Mills Ltd.,



Sri Gomathipuram Post,
Sankarankovil,
Tirunelveli District,
rep. by its Managing Director,
P.R.Ramasubramania Raja

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... Petitioner

Vs.

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3.Sri.K.Poochan

... Respondents

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For Petitioner	: Mr.M.Ilanchezhian
For Respondents	: Mr.S.Mandhiralingeswaran
	for R3
	No Appeaance for R1 and R2

W.P(MD)No.8008 of 2017

The Management of Geethanjaly Mills Ltd.,
Sri Gomathipuram Post,
Sankarankovil,
Tirunelveli District,
rep. by its Managing Director,
P.R.Ramasubramania Raja

... Petitioner

Vs.



1.The Appellate Authority,
Under Payment of Gratuity Act, 1972,
(Joint Commissioner of Labour)
Office of the Joint Commissioner of Labour,
Madurai.

2.The Learned Controlling Authority,
Under Payment of Gratuity Act, 1972,
(Assistant Commissioner of Labour),
Office of the Deputy Commissioner of Labour,
Tirunelveli.

3.Sri.M.Gurusamy

... Respondents

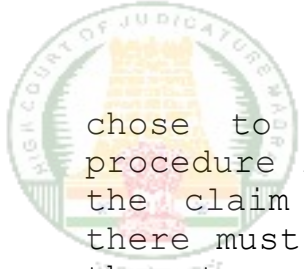
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For Petitioner	: Mr.M.Ilanchezhian
For Respondents	: Mr.S.Mandhiralingeswaran for R3 No Appearance for R1 and R2

COMMON ORDER

The Management has questioned the impugned order passed by the controlling authority under Payment of Gratuity Act, 1972.

2.The private respondents herein were employed with the petitioner Management. On their retirement, their gratuity claims were not settled. Therefore, they moved the controlling authority. There was delay in lodging the claim. Therefore, the petitions were filed together with an application for condonation of delay. The Management filed counter opposing the condonation of delay. The matter was taken up on a few occasions and thereafter, the Management was set ex-parte. While allowing the application for condonation of delay, the controlling authority



chose to pass order in the main petition itself. Such a procedure is clearly bad in law. If there was a delay in lodging the claim petition, the delay must be condoned and thereafter there must be enquiry in the main petition. In this case, even at the stage of condonation of delay, the main petition itself has been allowed. This kind of approach is not contemplated under the statute. Therefore, on this sole ground, the impugned order is set aside in part. In other words, the order condoning the delay is confirmed. The controlling authority is directed to number the main petition, hold an enquiry and thereafter, pass fresh orders in accordance with law. It is made clear that the Management will file its counter and also get along with the main matter without dragging on the proceedings. In any event, the controlling authority will pass orders in the main petition within two months. In the interest of justice, considering the undisputed facts involved, the Management is directed to pay a sum of Rs.15,000/- to all the private respondents herein. If such payment is not made, the controlling authority will be entitled to strike off the defence of the Management.

3. With these directions, these writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar()

/True copy/

Sub Assistant Registrar

To

1. The Appellate Authority,
Under Payment of Gratuity Act, 1972,
(Joint Commissioner of Labour)
Office of the Joint Commissioner of Labour,
Madurai.
2. The Learned Controlling Authority,
Under Payment of Gratuity Act, 1972,
(Assistant Commissioner of Labour),
Office of the Deputy Commissioner of Labour,
Tirunelveli.

+ 1 CC TO MR.S.Mandhiralingeswaran , ADVOCATE IN SR No. 52159
+ 1 CC TO MR.K.Hemakarthiskeyan , ADVOCATE IN SR No. 51881



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