

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No. 1617 of 2016

The Tamilnadu Co-operative Marketing
Federation Limited represented by its Secretary,
No.91, St.Mary's Road,
Chennai - 600 018.

... Petitioner

vs.

1. The Joint Commissioner of Labour,
(Appellate Authority under the Payment
of Gratuity Act, 1972),
Labour Welfare Building VI Floor,
D.M.S.Compound, Chennai - 600 006.

2. The Assistant Commissioner of Labour,
(Controlling Authority under payment of
Gratuity Act 1972)
Office of the Deputy Commissioner of
Labour, Labour Welfare Building,
Teynampet, Chennai - 600 006.

3. V.Seenivasagam

... Respondents

Writ Petitions filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari to call for the records in En.E/4734/2015 dated 04.11.2015 on the file of the Joint Commissioner of Labour, (Appellate Authority under the Payment of Gratuity Act, 1972), Labour Welfare Building, VI Floor, D.M.S.Compound, Chennai - 600 006 and quash the same, **(prayer amended as per order dated 25.02.2016 in WMP.No.4579 of 2016 in WP.No.1617 of 2016)**

For Petitioner : Mr.Milton Arul Rajendran

For Respondents : Mr.D.Suriyanarayanan,
Additional Government Pleader
for R1 and R2.
No appearance for R3

O R D E R

This Writ Petition is filed challenging the order dated 04.11.2015 of the first respondent, returning the appeal filed by the petitioner on the reason that the same was filed beyond the period of limitation and that the appeal was not accompanied

with certificate certifying that the petitioner has deposited the gratuity amount ordered by the Original Authority.

2. Heard both sides. Perused the materials placed before this Court.

3. It is the case of the petitioner that the first respondent has returned the appeal papers without considering the reasons stated in the affidavit filed by the petitioner seeking to condone the delay of 110 days in filing such appeal. It is seen that the said appeal was filed against the order dated 06.03.2015 passed by the second respondent directing the petitioner to pay a sum of Rs.7,89,828/- with 10% interest to the 3rd respondent herein, being the gratuity payable to the 3rd respondent.

4. Perusal of the impugned order dated 04.11.2015 would show that the first respondent has not adverted to any of the reasons stated by the petitioner in the affidavit filed in support of the application filed for condoning the delay. Needless to say that it is for the petitioner to represent the appeal papers once again before the first respondent, who in turn, shall consider the reasons stated by the petitioner for condoning the delay and pass appropriate orders. It is also made clear that the petitioner should comply with the other requirement, namely, depositing the amount ordered by the second respondent and produce such certificate before the first respondent along with the appeal papers when the same is represented. Since the impugned order is only returning the appeal papers, the petitioner is granted liberty to represent the same before the first respondent by complying with the above requirements. Accordingly, the Writ Petition is disposed of with a direction to the petitioner to represent the appeal by complying with the above condition of depositing the amount within a period of eight weeks from the date of receipt of a copy of this order. On such representation, the first respondent will consider the delay petition and pass orders on the same on merits and in accordance with law within a period of four weeks thereafter. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

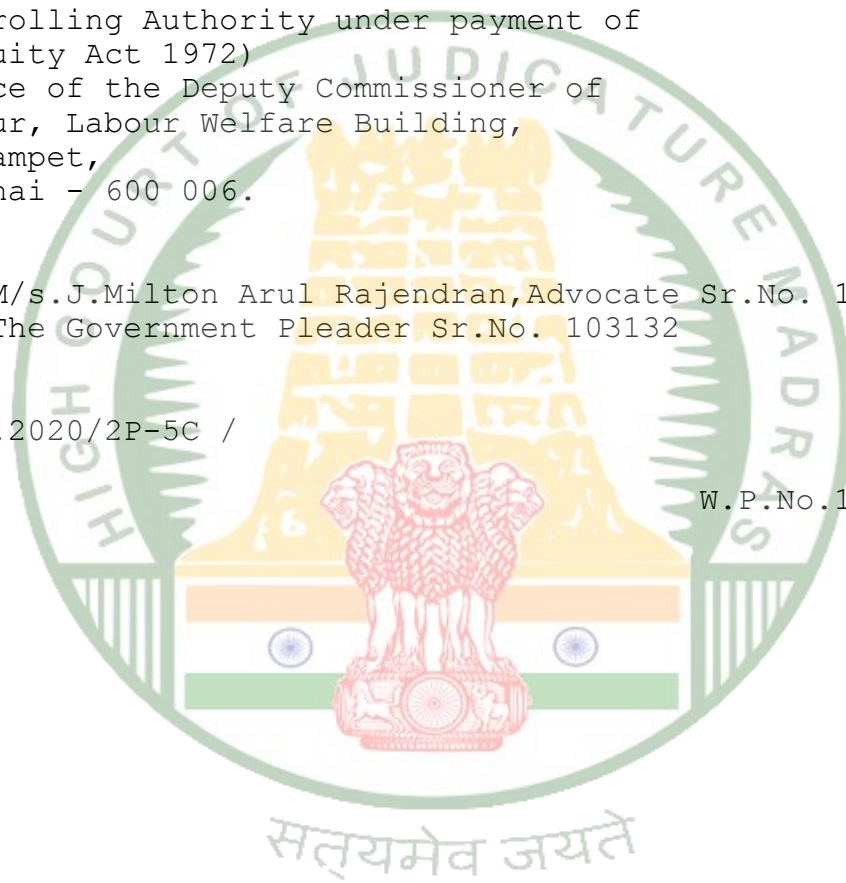
To

1. The Joint Commissioner of Labour,
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Office of the Deputy Commissioner of
Labour, Labour Welfare Building,
Teynampet,
Chennai - 600 006.

+1 cc to M/s.J.Milton Arul Rajendran, Advocate Sr.No. 102784
+1 cc to The Government Pleader Sr.No. 103132

AKM/09.01.2020/2P-5C /

W.P.No.1617 of 2016



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