

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2019

CORAM

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.NO.28399 OF 2019

AND

W.M.P.NO.28082 OF 2019

The Management of
Tanjavur Co-operative Marketing Federation,
Rep. by its Secretary,
Thiruvarur. Petitioner

vs.

1. Mr.P.Srisylan
2. The Additional Commissioner of Labour,
Tiruchirappalli.
3. The Assistant Commissioner of Labour,
Tiruchirappalli. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari to call for the records of the letter of the 2nd respondent in Letter Rc.No.Aa/4136/2017 dated 08.03.2019 and quash the same remand back to the appellate authority to admit the appeal and consider and dispose of the same on merits and in accordance with law.

For Petitioner : Mr.L.P.Shanmugasundaram
For Respondents : Mr.S.Ramasamy Rajarajan for R1

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O R D E R

This Writ Petition is filed challenging the order passed by the 2nd respondent dated 08.03.2019, wherein and whereby, the appeal presented by the petitioner against the order of the 3rd respondent dated 25.01.2017 was returned on the reason that the same was filed beyond the period of limitation.

2. Heard both sides.

3. It is seen that the 3rd respondent, by order dated 25.01.2017, directed the petitioner Management to pay a sum of Rs.1,10,658/- towards gratuity with 10% interest. Challenging the said order, the petitioner preferred an appeal on 20.12.2017. According to the petitioner, the order of the 3rd respondent dated 25.01.2017 was received by the petitioner only on 06.11.2017 and therefore, the appeal presented was in time. If that be the case, it is for the petitioner to represent the appeal with an affidavit stating that the appeal was filed in time. Needless to say that the affidavit should contain the material details as to how the appeal was filed in time. Since the 2nd respondent has only returned the appeal, it is for the petitioner to represent the same with necessary compliance.

4. Accordingly, without expressing any view on the merits of the claim made by the petitioner and the respondents, this Writ Petition is disposed of by directing the petitioner to represent the appeal before the 2nd respondent within a period of two weeks from the date of receipt of a copy of this order, by making necessary compliance and also by filing an affidavit as stated supra. After receipt of the represented papers, the 2nd respondent will consider as to whether the appeal was filed in time from the date of receipt of the order passed by the 3rd respondent and pass appropriate orders accordingly on merits and in accordance with law. It is also made clear that while representing the appeal, the petitioner should also comply with the statutory requirement of producing a certificate of the controlling authority to the effect that the petitioner has deposited with him the amount equal to the amount of gratuity required to be deposited as contemplated under sub-section 4 of Section 7 of the Payment of Gratuity Act, 1972. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vsi
To

1. The Additional Commissioner of Labour, Tiruchirappalli.
2. The Assistant Commissioner of Labour, Tiruchirappalli.

+lcc to Mr.S.Ramasamy Rajarajan,
Advocate in sr.no.103047 (28.02.2020)

W.P.No.28399 of 2019

SAI (CO)
CS/11/12/2019