

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.07.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.24875 of 2018
and
W.M.P.No.28918 of 2018

K.Sivaraj

Vs.

... Petitioner

1.The Appellate Authority under the
Payment of Gratuity Act &
Joint Commissioner for Labour, Coimbatore
Dr.Balasundaram Road,
Coimbatore - 641 018.

2.The Controlling Authority under the
Payment of Gratuity Act &
Deputy Commissioner for Labour,
Coimbatore Dr.Balasundaram Road,
Coimbatore - 641 018.

3.M.Paul Vincent

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the proceeding of the 1st respondent, dated 11.07.2018, returning the appeal filed by the petitioner under reference number A.Thi.Mu.No.Aa/2987/18 arisen pursuant to the order dated 10.08.2017, made in Gratuity Case G.A.No.50/2015, on the file of the 2nd respondent and quash the same and consequently direct the 1st respondent to entertain the appeal by condoning the delay and to pass appropriate orders in the appeal on merits and in accordance with law.

For Petitioner : Mr.A.Thayaparan

For RR 1 and 2 : Mr.K.K.Ramesh
Additional Government Pleader

For 3rd Respondent : Mr.K.Sathiyamurthy

ORDER

The present writ petition has been filed challenging the proceedings of the 1st respondent dated 11.07.2018, returning the appeal filed by the petitioner, which appeal was filed against the original authority order dated 10.08.2017 in Gratuity Case G.A.No.50/ 2015 i.e. the 2nd respondent.

2.The 1st respondent has returned the appeal on the ground that the petitioner did not comply with the requirements of Section 7(7) of the Payment of Gratuity Act, which provided for limitation of filing an appeal within a period of 60 days and a further extended period of another 60 days. As against the return of the appeal, the present writ petition has been filed.

3.Although the petitioner has attempted to argue the case that in view of certain difficulties faced by the management and the appeal could not be preferred in time, however, the same cannot be accepted by this Court for the simple reason that a statute prescribed period of limitation as 60 days and a further period of 60 days for condonation of delay. Once on expiry of 120 days, the present petitioner loses his right to file an appeal before the 1st respondent.

4.In view of the statutory prescription of limitation, this Court, while exercising its constitutional jurisdiction, cannot extend the period of limitation as provided in the statute. In the said circumstances, this Court finds that the present Writ Petition is not maintainable and hence, the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Sgl

To

1.The Appellate Authority under the
Payment of Gratuity Act &
Joint Commissioner for Labour, Coimbatore
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Coimbatore - 641 018.

2.The Controlling Authority under the
Payment of Gratuity Act &
Deputy Commissioner for Labour,
Coimbatore Dr.Balasundaram Road,
Coimbatore - 641 018.

+1cc to Mr.A.Thayaparan, Advocate, S.R.No.63145
+1cc to Mr.K.Sathiya Murthi, Advocate, S.R.No.63202

W.P.No.24875 of 2018

GP(CO)

RRS(21/08/2019)