

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 08.03.2019

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE**W.P. (MD) .No.5458 of 2019****and****W.M.P (MD) Nos.4335 & 4336 of 2019**

The Executive Officer,
Arulmigu Natchadai
Thavirtharuliya swamy,
Thirukoil, Devathanam,
Virudhunagar District.

... Petitioner

-VS-

1) The Joint Commissioner of Labour / Controlling
Authority under Payment of Gratuity,
Act 1972, Madurai.

2) The Assistant Commissioner
of Labour / Controlling
Authority under Payment of Gratuity
Act 1972, Madurai

3) R.Palanisamy ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 1st respondent to take on the file the Appeal filed by the petitioner against the orders passed in P.G.No.180 of 2015 dated 30.11.2016 passed by the 2nd respondent exempting the petitioner from depositing the Award amount passed in P.G.No.180 of 2015 by 2nd respondent and dispose the same on merits and in accordance with law.

For Petitioner : Mr.S.Manohar
For Respondents : Mr.D.Muruganandham,
Additional Government Pleader

O R D E R

The instant writ petition has been filed by the petitioner herein aggrieved by the order dated 30.11.2016 passed by the second respondent, returning the Appeal filed by them under section 7(7) of the Payment of Gratuity Act, 1972 on the ground that the petitioner has not produced the certificate of the Controlling Authority to the effect that the petitioner has deposited with him an amount equal to the amount of gratuity required to be deposited under sub section (4) or deposited with the Appellate Authority such amount.



2. It is the case of the petitioner that being a small temple they did not have funds to make the pre-deposit as stipulated under the proviso to section 7(7) of the Act of 1992. It is also their case that the third respondent is not entitled for gratuity. Aggrieved by the impugned order passed by the first respondent, the instant writ petition has been filed.

3. Heard Mr.S.Manohar, learned counsel for the petitioner and Mr.D.Muruganandham, learned Additional Government Pleader accepts notice on behalf of the respondents 1 and 2.

4. The issue raised in the writ petition is covered by several judicial pronouncements of this Court including the judgments reported in 2001 (2) LNN 445 in the case of **Special Officer, Kanyakumari District, Co-operative Printing Works, Limited, Kanyakumari District vs., Appellate Authority under Payment of Gratuity Act, (Deputy Commissioner for Labour), Tirunelveli and others** and in the judgment reported in 2003 (3) LLN 1096 in the case of **Christian Medical College and Hospital, Vellore and Deputy Commissioner of Labour (Appeals) Chennai and others** and others. In both the above referred judgments, the learned Single Judges of this Court have held that the requirement of pre-deposit of Gratuity Amount under proviso 2 section 7(7) of the Payment of Gratuity Act, 1972 is mandatory for filing an Appeal. Being a special law and a welfare legislation enacted to protect the interest of the employees engaged in factories, mines, oil fields, ports, plantations, railway companies, shops or other establishments and for matters connected herewith incidental here to, the special law overrides any general law like Section 5 of the Limitations Act.

5. In view of the settled law, there is no merit in the writ petition. Accordingly, the **writ petition is dismissed**. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

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To

- 1) The Joint Commissioner of Labour / Controlling Authority under Payment of Gratuity, Act 1972, Madurai.



2) The Assistant Commissioner
of Labour / Controlling
Authority under Payment of Gratuity
Act 1972, Madurai.

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 52998

Order made in
W.P. (MD) .No.5458 of 2019

TR (24.04.2019) 3P 4C