



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P(MD)No.16163 of 2019

M/s.Madura Sugars,
Unit - Tamil Nadu Sugar Corporation Ltd.,
Pandiarajapuram - 625 209,
Vadipatti Taluk, Madurai District,
through its Chief Executive (in-charge) .. Petitioner

Vs.

1.The Appellate Authority under the Payment of Gratuity Act,
(Additional Commissioner of Labour),
Ellis Nagar, Madurai - 625 016.

2.Controlling Authority under the Payment of
Gratuity Act,
(Deputy Commissioner of Labour),
O/o.Joint Commissioner of Labour,
Bharathi Ula Road - Race Course Colony,
Madurai - 625 002.

3.V.Ganesan ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st respondent to entertain the appeal to be filed by the petitioner mill against the orders passed by the 2nd respondent in P.G.No.14/2013 along with the other cases in the Common Award dated 27.03.2019 received on 02.05.2019 without depositing the ordered amount of Rs.2,20,800/- as per Sec.7 of Payment of Gratuity Act.

For Petitioner : Mr.P.Chandra Bose
For R1 & R2 : Mr.Aayiram K.Selvakumar
Additional Government Pleader
For R3 : Mr.T.Ravichandran

ORDER

This writ petition has been filed seeking direction to the 1st respondent to entertain the appeal to be filed by the petitioner mill against the orders passed by the 2nd respondent in P.G.No.14/2013 on 02.05.2019, without insisting the petitioner to pay the precondition amount of Rs.2,20,800/- as per Section 7 of Payment of Gratuity Act.



2. According to the petitioner, the petitioner sugar-mill was closed in the year 2002 due to financial crisis. The employees of the petitioner mill filed an application before the second respondent seeking gratuity. The second respondent passed a common order stating that the employees of the petitioner mill are entitled to gratuity. If the petitioner mill approaches the appellate authority challenging the aforesaid order, the petitioner has to deposit the pre condition amount as required under the provisions of the Payment of Gratuity Act. Therefore, the petitioner mill is before this Court seeking the aforesaid relief to file an appeal without depositing the precondition amount.

3. The learned counsel for the third respondent submitted that the writ petition itself is not maintainable. The petitioner has to file an appeal in accordance with the provisions of the Payment of Gratuity Act. Without filing the said appeal, this Court cannot entertain this writ petition under Article 226 of the Constitution of India.

4. Under the said circumstances, this Court is of the view that the writ petition is not maintainable under Article 226 of the Constitution of India, without exhausting the alternative remedy. It is open to the petitioner mill to prefer an appeal before the appellate authority under the provisions of the Payment of Gratuity Act, within a period of two weeks. Both the parties shall submit the relevant materials before the appellate authority and place their respective submissions, before the appellate authority, including the maintainability of the appeal.

5. The writ petition is disposed of with the above observation. No costs.

Sd/-

Assistant Registrar(Writs)

// True Copy //

Sub Assistant Registrar(CS)

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To

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(Additional Commissioner of Labour),
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2. Controlling Authority under the Payment of
Gratuity Act,
(Deputy Commissioner of Labour),
O/o. Joint Commissioner of Labour,
Bharathi Ula Road - Race Course Colony,
Madurai - 625 002.

+1CC TO MR.P.CHANDRABOSE, Advocate Sr. No.80924
+1CC TO MR.T.RAVI CHANDRAN, Advocate Sr. No. 80800

W.P (MD) No.16163 of 2019
08.08.2019

SCR(CO)
TR (13.08.2019) 3P 5C