

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 16730 of 2018
and
W.M.P. No. 19922 of 2018

The Management,
Tamil Nadu State Transport Corporation (Coimbatore) Limited,
37, Mettupalayam Road,
Coimbatore - 641 043. Petitioner

-vs-

1. M.A. Thangavelu
2. The Assistant Commissioner of Labour,
O/o. The Deputy Commissioner of Labour,
Coimbatore- 18. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the order dated 15.09.2017 passed in G.A. No. 2 of 2017 on the file of the Second Respondent and quash the same as being illegal, arbitrary and unconstitutional.

For Petitioner : Mr. A. Sundaravadanam

For Respondents: Mr. V. Ajoy Khose (for R1)

Mrs. P. Rajalakshmi,
Additional Government Pleader (for R2)

O R D E R

(through video conference)

Heard Mr. A.Sundaravadanam, Learned Counsel appearing for the Petitioner, Mr. V.Ajoy Khose, Learned Counsel for the First Respondent and Mrs. P.Rajalakshmi, Learned Additional Government Pleader appearing for the Second Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Second Respondent by an order dated 15.09.2017 in G.A. No. 2 of 2017 granted the claim for gratuity under Section 7(4) of the Payment of Gratuity Act, 1972, made by the First Respondent against the Petitioner, who had received a copy of that order on 24.01.2018. The Petitioner was entitled to prefer appeal against that order within a period of 60 days from the date of its receipt under Section 7(7) of the Payment of Gratuity Act, 1972, before the Appellate Authority, who has been empowered to condone delay in filing such appeal for an extended period of 60 days, if sufficient cause for not preferring appeal within that period is made out. However, the Petitioner did not prefer any such appeal before the Appellate Authority but instead had filed this Writ Petition on 03.07.2018 challenging the order passed by the Second Respondent beyond the maximum limitation period of 120 days from the date of receipt of the copy of that order.

3. The Hon'ble Supreme Court of India in Assistant Commissioner (CT) LTU, Kakinada -vs- Glaxo Smith Kline Consumer Health Care Limited (Order dated 06.05.2020 in Civil Appeal No. 2413 of 2020) has emphatically laid down that the High Court in the exercise of powers under Article 226 of the Constitution of India, ought not to entertain Writ Petition assailing the order passed by a Statutory Authority which was not appealed against within the maximum period of limitation before the concerned Appellate Authority. In view of that legal position, it is not possible to entertain this Writ Petition challenging the order of the First Respondent.

4. The Writ Petition is dismissed with the aforesaid observations. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner of Labour,
O/o. The Deputy Commissioner of Labour,
Coimbatore- 18.

+1cc to Mr.V.Ajoy Khose, Advocate Sr.25311
+1cc to Mr.A.Sundaravadhanam, Advocate Sr.25373

W.P. No. 16730 of 2018

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srg 07/08/2020



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