

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2020

CORAM

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

W.P. No. 2655 of 2018  
and  
W.M.P. No. 3282 of 2018

The Regional Manager  
Tamilnadu Civil Supplies Corporation  
Salem Main Road  
Dharmapuri.

... Petitioner

-vs-

1. The Controlling Authority  
(Under the Payment of Gratuity Act, 1972)  
The Assistant Commissioner of Labour  
Salem.

2. Thiru. S.V.Balachandran

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the order passed by the First Respondent, the Controlling Authority (Under the Payment of Gratuity Act, 1972) the Assistant Commissioner of Labour, Salem made in P.G. No. 74/2015 dated 15.11.2016, quash the same.

For Petitioner: Mr. P.Paramasiva Doss

For Respondents: Mr. D. Sathyaraj (For R1)  
Additional Government Pleader

Ms. I.Kowsar Nisar (For R2)

O R D E R  
(through video conference)

Heard Mr. P.Paramasiva Doss, Learned Counsel for the Petitioner, Mr. D. Sathyaraj, Learned Additional Government Pleader for the First Respondent, Ms. I.Kowsar Nisar, Learned Counsel for the Second Respondent, and perused the materials placed on record, apart from the pleadings of the

parties.

2. The First Respondent by an order dated 15.11.2016 in P.G.A. No. 74 of 2015 had granted the claim for gratuity under Section 7(4) of the Payment of Gratuity Act, 1972 (hereinafter referred to as 'the Act' for short) made by the Second Respondent against the Petitioner, who had received a copy of that order on 14.12.2016. 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 Act 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 has instead filed this Writ Petition on 17.01.2018 challenging the order passed by the First Respondent beyond the maximum limitation period of 120 days from the date of receipt of 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. However, inasmuch as no view has been expressed by this Court on the correctness or otherwise on the merits of the claim made by the Second Respondent in the order of the First Respondent, it is clarified that if any person similarly placed to the Second Respondent in this Writ Petition makes a claim for identical relief in any subsequent proceeding, the same would have to be decided on the basis of pleadings and evidence adduced on its own merits in accordance with law, uninfluenced and uninhibited by the conclusion arrived in that 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

//True Copy//

Sub Assistant Registrar

Maya

To

The Controlling Authority  
(Under the Payment of Gratuity Act, 1972)  
The Assistant Commissioner of Labour  
Salem.

W.P. No. 2655 of 2018

MG (CO)  
CB (27/07/2020)



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