

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2020

CORAM

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

W.P. No. 2656 of 2018
and
W.M.P. No. 3283 of 2018

The Management
Tamilnadu Civil Supplies Corporation
Dharmapuri Region. Petitioner

-vs-

1. The Assistant Commissioner of Labour (i/c), Salem
cum Authority as under the Payment of Gratuity Act, 1972
Salem.

2. M.Thirunavukarasu 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. 73/2015 dated 15.11.2016 and to quash the same as illegal.

For Petitioner : Mr. P.Paramasiva Doss

For Respondents: Ms. P.Rajalakshmi (For R1)
Additional Government Pleader
Mr. N.A. Nissar Ahamed (for R2)

O R D E R

(through video conference)

Heard Mr. P.Paramasiva Doss, Learned Counsel for the
Petitioner, Ms. P.Rajalakshmi, Learned Additional Government
Pleader for the First 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. 73 of 2015 had granted the claim for gratuity under Section 7(4) of the Payment of Gratuity Act, 1972 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 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 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(CO)

//True Copy//

Sub Assistant Registrar

To

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

W.P. No. 2656 of 2018

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srg 27/07/2020



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