

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2020

CORAM

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

W.P. No. 27563 of 2018
and
W.M.P. No. 32083 of 2018

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

-vs-

1. P.Selvaraj,
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 26.02.2018 passed in G.A. No. 70 of 2017 on the file of the Second Respondent and quash the same as being illegal, arbitrary and unconstitutional.

For Petitioner : Mr. A.Sundaravadanam,
Standing Counsel

For Respondents: Mr. R.Chandrasekaran (for R1)
Mr. D.Sathyaraj,
Special Government Pleader (for R2)

O R D E R
(through video conference)

Heard Mr. A.Sundaravadanam, Learned Standing Counsel appearing for the Petitioner, Mr. R.Chandrasekaran, Learned Counsel for the First Respondent and Mr. D.Sathyaraj, Learned Additional Government Pleader 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 26.02.2018 in G.A. No. 70 of 2017 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 First Respondent against the Petitioner, who had received a copy of that order on 06.03.2018. 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 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 25.09.2018 challenging the order passed by the Second 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 Second Respondent.

4. In the result, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

vjt/kv

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

+1cc to Mr.A.Sundaravadhanan, Advocate, S.R.No.26059

W.P. No. 27563 of 2018

VSN II(CO)
GN(02/11/2020)