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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2021

CORAM

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

W.P. No. 13104 of 2013

and

M.P. No. 1 of 2013

Rama Chandiramani

... Petitioner

-vs-

1. Sivagami

2. Viswakarma Property and Developers Limited,
No.18, 2nd Main Road, Kasturi Bai Road,
Adyar, Chennai - 600 020.

3. The Asst. Commissioner of Labour,
Payment of Gratuity, D.M.S. Compound,
Chennai - 600 006.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, to call for the records in P.G. Case No. 168 of 2008 on the file of the Third Respondent and quash the order of the Assistant Commissioner of Labour dated 02.01.2013 in P.G. Case No. 168 of 2008.

For Petitioner : Mr. S.Sridhar

For Respondents : No Appearance (for R1 and R2)

Mr. C.Harsha Raj,
Government Counsel (for R3)

O R D E R

(through video conference)

Heard Mr. Mr. S.Sridhar, Learned Counsel for the Petitioner and Mr. C.Harsha Raj, Learned Government Counsel appearing for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.



2. The Third Respondent by an order dated 02.01.2013 in P.G. No. 168 of 2008 had granted the claim for gratuity under Section 7(4) of the Payment of Gratuity Act, 1942 (hereinafter referred to as 'the Act' for short) made by the First Respondent against the Petitioner and the Second Respondent. 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 26.04.2013 challenging the order passed by the Third Respondent.

3. When it is pointed out that it is not possible to entertain this Writ Petition in the absence of any acceptable explanation from the Petitioner for not having availed the aforesaid alternative remedy provided under the statute, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to file appeal before the Appellate Authority. She has filed a memo dated 01.11.2021 to that effect through e-mail, which is placed on record.

In the result, the Writ Petition is dismissed as withdrawn granting such liberty. It is made clear that for the purpose of reckoning limitation for availing aforesaid remedy, the period from the date of filing of the Writ Petition, viz., 26.04.2013, till the date on which certified copy of this order is made ready by the Registry, shall be excluded. No costs.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

dm/vjt

To

1. The Asst. Commissioner of Labour,
Payment of Gratuity, D.M.S. Compound,
Chennai - 600 006.



2. The Section Officer,
E.R.Section,
High Court, Madras-104.

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(With direction to return the
original impugned order)

3. The Assistant Registrar,
Writ Section,
High Court, Madras-104.

Copy to:

Rama Chandiramani
Wife of C.Chandiramani
61 Poes Garden,
Chennai - 600 086.

W.P. No. 13104 of 2013

SMI (CO)
SU(17/11/2021)