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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.9904 of 2005

Tamilnadu State Transport Corporation
(Salem) Ltd., Salem,
rep. by its Managing Director,
102, Ramakrishna Road,
Salem - 636 007.

... Petitioner

Vs.

1. The Assistant Commissioner of Labour,
Salem.

2. M.Kandasamy

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Certiorari, to call for the records of the 1st Respondent in P.G.No.31/2003, dated 10.06.2004 and quash the same.

For Petitioner : Mr.D.Raghu

For 1st Respondent : Mr.L.S.M.Hasan Fizal,
Government Advocate

O R D E R

Petitioner has come up with this Writ Petition challenging the order dated 10.06.2004 passed by the 1st Respondent herein in P.G.No.31/2003, in determining a sum of Rs.52,604/- as payment of Gratuity to the 2nd Respondent/workman.

2. Heard the learned counsel on either side and perused the material documents available on record.

3. In terms of Section 7 of the Payment of Gratuity Act, 1972, read with Rule 18 of the Tamil Nadu Payment of Gratuity Rules, 1973, the Petitioner has got a right of Appeal and the maximum period to file an Appeal is 120 days (60 days + 60



days). The order under challenge dated 10.06.2004 passed by the Controlling Authority was received by the Petitioner/Management on 23.06.2004 vide Ref.No.19369 and the Writ Petition was filed on 21.03.2005.

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4. It is represented that, the Petitioner/Management has deposited the Gratuity amount before preferring the Appeal and the time limit for filing the Appeal lapsed. Without exhausting the Appeal remedy, the Petitioner has straightaway approached this Court, which will, not only give rise to several litigations, but will also make the Appeal provision under the Payment of Gratuity Act, 1972, absolutely redundant. In the case of Onward Trading Company, Madras Vs. Deputy Commissioner of Labour, Madras and another reported in 1989 (2) LLN 672 and 673, this Court has held that, if the Petitioner fails to deposit the amount of gratuity within the stipulated time, then the Appeal itself is incompetent.

5. Keeping in mind the aforesaid judgment and that, the Appellate Authority has become functus officio, this Court is not inclined to grant the relief sought for by the Petitioner in this case. If the 2nd Respondent/employee is alive, he is permitted to withdraw the Gratuity amount. In case, the employee is no more, his legal heirs are permitted to withdraw the amount, on receipt of a copy of this order.

The Writ Petition is dismissed with the above observation. No costs. Consequently, connected W.P.M.P.No.10755 of 2005 is closed.

Sd/-
Assistant Registrar (CCC)

// True Copy//

Sub Assistant Registrar

(aeb)

To:

The Assistant Commissioner of Labour,
Salem.

+1cc to Mr.D.Raghu, Advocate, S.R.No.32353

W.P.No.9904 of 2005

PCH (CO)
SU(16/08/2021)