



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2021

CORAM

The Hon'ble Mrs. Justice Pushpa Sathyanarayana
and
The Hon'ble Mr. Justice Krishnan Ramasamy

W.A.No.2345 of 2021
and C.M.P.No.14902 of 2021

The Management
Periyakarumalai Tea Producing
and Company Limited
Represented by its Power Agent
Mr. Selvan, Legal Officer
Nadumalai Estate
Valparai 642 127.

...Appellant/Petitioner

vs

1. Tmt. Venmathi

2. The Additional Commissioner of Labour
Appellate Authority
Payment of Gratuity Act
Office of the Additional Commissioner of Labour
Coimbatore 641 018.

...Respondents

Prayer: Writ Appeal filed under Clause 15 of Letter Patent to set aside the order passed by the Learned Judge in W.P.No.1388 of 2021 dated 08.04.2021.

Prayer in W.P.No.1388/2021:

Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records in connection with the order passed by the Additional Commissioner of Labour, Coimbatore bearing Ref.No.A.The.Mo.No.Aa/2843/2020 dated 02.11.2020 and quash the same and allow the interlocutory application No... of 2020 in A.G.A.No. of 2020 filed on 28.10.2020 and further direct the Additional Commissioner of Labour, Coimbatore the 2nd respondent herein to hear the appeal on merits.

For Appellant : V. Mohanapriya



JUDGMENT
(Delivered by Krishnan Ramasamy, J.,)

WEB COPY This Writ Appeal is directed against the order of a learned single Judge of this Court dated 08.04.2021 passed in W.P.No.1388 of 2021 dismissing the Writ Petition filed by the appellant herein, holding that the Additional Commissioner of Labour has rightly rejected the appeal since the appeal filed by the appellant was beyond the statutory period of 120 days.

2. It appears that aggrieved by the order, dated 20.08.2019 passed in G.A.No.230 of 2016 by the Deputy Commissioner (General), Coimbatore directing the appellant/Company to pay a sum of Rs.1,44,525/- towards gratuity with 10% interest to its worker, the appellant preferred an appeal before the 2nd respondent along with a petition, seeking to condone the delay of 76 days in preferring the appeal. By order dated 02.11.2020, the 2nd respondent/Appellate Authority, rejected the appeal on the ground that the appeal has not been filed within the time prescribed under the Payment of Gratuity Act, 1972. Challenging the order of the Appellate Authority, the appellant has filed a Writ Petition before the Writ Court. By order, dated 08.04.2021, the Writ Court dismissed the Writ Petition. Questioning the same, the present Writ Appeal has been preferred by the appellant.

3. The learned counsel appearing for the appellant would submit that the writ petition was dismissed on the sole ground that the writ petitioner preferred the appeal before the second respondent after the statutory period of 120 days as provided in the Act. However, the learned counsel submitted that due to Covid-19 pandemic, the appellant was not able to file the appeal in time and this vital fact was not considered by the learned single Judge and dismissed the writ petition, which is liable to be set aside.

4. We have given our anxious consideration to the submissions made by the learned counsel appearing for the appellant and perused the records.

5. On perusal of the record, it would show that the impugned order was passed on 20.08.2019 by the original Authority. The said order was received by the appellant on 09.09.2019. The appellant/Management has deposited the Gratuity amount on 27.10.2020 and preferred the appeal to the 2nd respondent on 28.10.2020. As per the statute, the appeal was supposed to be filed within 120 days from the date of receipt of a copy of the impugned order. Admittedly, the impugned order was received on 09.09.2019 and therefore, the appeal was supposed to be filed on



or before 08.01.2020. However, the appeal was preferred by the appellant on 28.10.2020 which is beyond the period of 120 days. The reason for the delay assigned by the appellant is that due to Covid-19 pandemic, it was not able to file the appeal in time, is also not cogent and convincing. In fact, the Covid-19 pandemic situation started prevailing only in the middle of March 2020, whereas, the appeal was preferred in the month of October, i.e. on 28.10.2020, which is much later than the Covid-19 pandemic situation. Hence, the statutory period of limit was over as early as on 08.01.2020. Therefore, we are not inclined to show any indulgence to the submission made by the learned counsel for the appellant citing Covid-19 pandemic situation.

6. Therefore, we do not find any infirmity in the order passed by the learned single Judge in order to interfere with the same. Accordingly, the Writ Appeal is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Additional Commissioner of Labour
Appellate Authority
Payment of Gratuity Act
Office of the Additional Commissioner of Labour
Coimbatore 641 018.

+1 CC to Mr.V. Mohana Priya, Advocate sr 47412.
+1 Cc to The Government Pleader sr 47866.

W.A. No.2345 of 2021

KK(CO)
SP(10/11/2021)