



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **17.02.2021**

CORAM:

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P. (MD)No.9199 of 2011

and

M.P. (MD) .No.1 of 2011

D.A.Deivanayagam

... Petitioner

Vs.

1.The Appellate Authority under the
payment of Gratuity Act, 1972,
(Joint Commissioner of Labour),
Madurai.

2.Controlling Authority under the
payment of Gratuity Act, 1972,
(Assistant Commissioner of Labour),
Palayamcottai, Tirunelveli 627 007.

3.Thiru S.Palavesam,
17, Nammalvar Street,
Tuticorin.

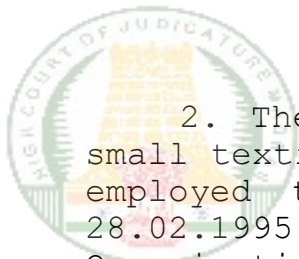
... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the impugned order, dated 04.10.2010 passed by the first respondent in P.G.A.No.17 of 2010, confirming the order dated 31.05.2010 passed by the second respondent in P.G.(I.A.).No.113 of 2008 in P.G.No.14 of 2008 and quash the same as illegal.

For Petitioner	: Mr.Jerin Mathew for M/s. Ajmal Associates
For R1	: Mr.A.Karthik Government Advocate
For R2 & R3	: Mr.S.Pon Senthilkumaran

O R D E R

This writ petition has been filed challenging the impugned order passed by the first respondent, dated 04.10.2010 in P.G.A.No.17 of 2010, confirming the order dated 31.05.2010, passed by the second respondent in P.G.(I.A.).No.113 of 2008 in P.G.No.14 of 2008 and to quash the same.



2. The case of the petitioner is that the petitioner runs a small textile retail business at Tuticorin. The third respondent was employed there till he attained the age of superannuation on 28.02.1995 and he got his provident fund dues settled by the EPF Organisation during July 1995 itself. Thereafter, the third respondent has filed an application before the second respondent, claiming payment of gratuity, after a lapse of nearly 12 years. In the said application, the third respondent has stated that he has completed his service on 03.06.2007 and that there was a delay of 231 days in filing the said application. Hence, the third respondent has filed a separate application in I.A.No.113 of 2008, praying for condoning the delay. However, the second respondent, without appreciating the materials available before her, allowed the condone delay application in I.A.No.113 of 2008, on 31.05.2010. Aggrieved by the said order, the petitioner has filed an appeal in P.G.A.No.17 of 2010. However, without going into the merits of the matter, the first respondent has dismissed the appeal on 04.10.2010. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that during the pendency of the writ petition, the third respondent has passed away. However, the petitioner has not taken any steps to implead the legal representatives of the third respondent.

4. In view of the above, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar

To

1.The Appellate Authority under the
payment of Gratuity Act, 1972,
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+1 CC to M/s.M.E.ILANGO, Advocate (SR-5730[F] dated 17/02/2021)

+1 CC to M/s.SPL GP (SR-5923[F] dated 18/02/2021)

W.P. (MD)No.9199 of 2011

17.02.2021

akv

<https://hdservices.courts.gov.in/hdservices> MS/26003/2021/23. 5C