



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2021

C O R A M

WEB COPY

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. (MD) No.7116 of 2013

The Secretary
Ty.Spl.191, Kadoor Primary
Agricultural Co.operative Credit Society,
Kadoor Post,
Kunnam Taluk,
Perambalur District.

... Petitioner

Vs.

1.The Appellate Authority under
Payment of Gratuity Act cum
Joint Commissioner of Labour,
Trichy-20.

2.The Controlling Authority under
Payment of Gratuity Act,
cum Assistant Commissioner of Labour
Office of the Deputy Commissioner of Labour
Trichy-20.

3.T.Pichaipillai

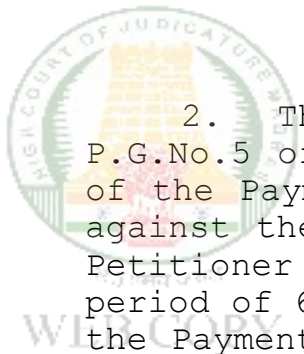
...Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records of the 1st respondent in ம.கா.ம.மு.உ.ம.என்.05/2012, dated 07.01.2013 and quash the same and directing the 1st respondent to condone the delay and admit the appeal presented by the petitioner and to conduct proper enquiry in the appeal filed by the petitioner.

For Petitioner : Mr.S.Velayutham
For R1 and 2 : Mr.R.Murugan
Additional Government Pleader

ORDER

Heard Mr.S.Velyautham, Learned Counsel for the Petitioner and Mr.R.Murugan, Learned Additional Government Pleader for the First and Second Respondents and perused the materials placed on record apart from the pleadings of the parties.



2. The Second Respondent by an order dated 08.03.2011 in P.G.No.5 of 2011 granted the claim for gratuity under Section 7(4) of the Payment of Gratuity Act, 1972, made by the Third Respondent against the Petitioner, who had received a copy of that order. 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 Payment of Gratuity Act, 1972, before the First Respondent, who has been empowered to condone the 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 had presented the appeal before the First Respondent with the delay of 363 days, which is beyond the maximum period of 120 days, which could be condoned. The First Respondent by an order in g.bfh.nk.K.,.k.vz;.05/2012 dated 07.01.2013 refused to entertain that time barred appeal. Aggrieved thereby, the Petitioner has filed this Writ Petition.

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 First Respondent. However, inasmuch as no view has been expressed by the First Respondent or this Court on the correctness or otherwise on the merits of the claim made by the Third Respondent in the order of the Second Respondent, it is clarified that if any person similarly placed to the Third Respondent in this Writ Petition makes a claim for identical relief in any subsequent proceeding, the same would have to be decided on the basis of pleadings and evidence adduced on its own merits in accordance with law, uninfluenced and uninhibited by the conclusion arrived in that order of the Second Respondent.

4. The Writ Petition is dismissed with the aforesaid clarification. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



1.The Appellate Authority under
Payment of Gratuity Act cum
Joint Commissioner of Labour,
Trichy-20.

2.The Controlling Authority under
Payment of Gratuity Act,
cum Assistant Commissioner of Labour
Office of the Deputy Commissioner of Labour
Trichy-20.

+1 CC to M/s.SPL GP (SR-16762[F] dated 20/04/2021)

W.P. (MD) No.7116 of 2013

19.04.2021

RK(13.05.2021) 3P 4C