



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2021

CORAM

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

WEB COPY

W.P. (MD) No. 13532 of 2014

and

M.P. (MD) No. 1 of 2014

Kavalilpatti Village Panchayat,
Rep. by its President,
Thiruvonam Post,
Orathanadu Taluk,
Thanjavur District.

... Petitioner

-VS-

1.The Controlling Authority,
Assistant Commissioner of Labour (Payment of Gratuity),
Office of Deputy Labour Commissioner,
Trichy - 20.

2.R.Kaliyamurthy

... Respondents

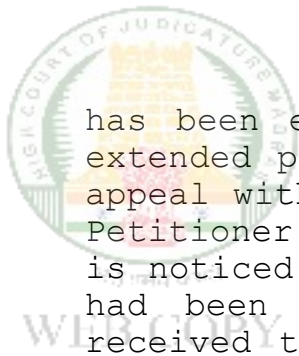
Prayer:- Writ Petition filed under Article 226 of Constitution of India, seeking for a Writ of Certiorari, calling for the order passed by the First Respondent dated 25.09.2013 in P.G. No. 40 of 2013 on the file of the First Respondent and quash the same as arbitrary.

For Petitioner : Mr. M.Rajarajan
For Second Respondent : Mr. T.Ravichandran

O R D E R
(through video conference)

Heard Mr. M.Rajarajan, Learned Counsel for the Petitioner and Mr. T.Ravichandran, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Second Respondent made a claim against the Petitioner for gratuity under Section 7(4) of the Payment of Gratuity Act, 1972 (hereinafter referred to as 'the Act' for short) in P.G. No. 40 of 2013 before the First Respondent which was granted by order dated 25.09.2013. 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. Though the date on which the Petitioner has received the copy of the said order is not stated, it is noticed from the records produced by the First Respondent that it had been despatched on 13.02.2014 and the Petitioner, who had received that copy, has filed the same in this Writ Petition from which it could be inferred that the Petitioner had received it. However, the Petitioner did not prefer any such appeal before the Appellate Authority, but has instead filed this Writ Petition on 12.08.2014 challenging the order passed by the First Respondent. As it is stated in the affidavit filed in support of the Writ Petition that there is no express provision in the Act to entertain the appeal beyond the maximum period of 120 days from the date of receipt of a copy of the order, it is accepted by the Petitioner that more than 120 days have lapsed from the date of its receipt by him.

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 this Court on the correctness or otherwise on the merits of the claim made by the Second Respondent in the order of the First Respondent, it would obviously mean that if any person similarly placed to the Second 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 the impugned order passed by the First Respondent.

In the result, the Writ Petition is dismissed with the aforesaid clarification. Consequently, the connected miscellaneous petition is closed. No costs.

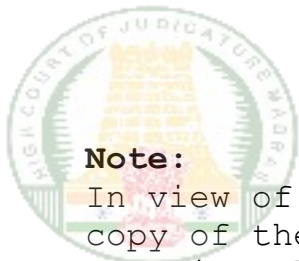
Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

The Controlling Authority,
Assistant Commissioner of Labour (Payment of Gratuity),
Office of Deputy Labour Commissioner,
Trichy - 20.

Copy to:

The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

W.P. (MD) No. 13532 of 2014
12.07.2021

MGJ(27.08.2021) 3P 4C