



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2021

CORAM :

THE HON`BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) No.19905 of 2021

and

W.M.P(MD)Nos.16608 of 2021

The Regional Manager,
Tamilnadu Civil Supplies Corporation,
Karur Region,
District Collector Office Campus,
Karur District.

Petitioner

Vs.

1.The Appellate Authority under
the Payment of Gratuity Act/
The Additional Commissioner of Labour,
Office of the Joint Commissioner of Labour,
Trichy.

2.The Controlling Authority under
the Payment of Gratuity Act/
The Deputy Commissioner of Labour,
Office of the Deputy Commissioner of Labour,
Dindigul.

3.D.Ravi

Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned orders passed by the first respondent in Na.Ka.No.Aa/1589/2021, dated 16.09.2021, and quash the same and consequently direct the first respondent to entertain the appeal filed by the petitioner against the order passed by the second respondent in PG.No.162 of 2019, dated 11.12.2020 on merits and in accordance with law.

For Petitioner :Mr.G.Mohan Kumar

For R1 & R2 :Mr.R.Suresh Kumar
Government Advocate (Civil)



O R D E R

This Writ Petition is filed as against the order passed by the first respondent in Na.Ka.No.Aa/1589/2021, dated 16.09.2021 and for consequential direction to the first respondent to entertain the appeal filed by the petitioner against the order passed by the second respondent in PG No.162 of 2019, dated 11.12.2020.

2.The third respondent herein filed a petition in PG No.162 of 2019 before the second respondent herein, under the provisions of Gratuity Act, claiming that he was appointed as 'Seasonal Helper' on 18.02.1983 and worked till his superannuation on 31.03.2015 and that he had put in continuous 32 years of service and his last drawn salary was Rs.19,710/- and that he is entitled to receive Rs.3,63,877/- as gratuity, however, he was paid only Rs.92,966/- towards gratuity. He claimed that the remaining amount of Rs.2,70,911/- with interest with a delay of 1443 days.

3.The second respondent allowed the application filed by the third respondent in PG.No.162 of 2019 on 11.12.2020 and aggrieved over the same, the petitioner, who is the Regional Manager, Tamil Nadu Civil Supplies Corporation, Karur Region preferred a statutory appeal before the first respondent on 04.08.2021. According to the learned counsel for the petitioner, the order dated 11.12.2020 was received by their office on 04.01.2021 and in view of the pandemic situation, they could not file the appeal within the statutory period and therefore the appeal was filed only on 04.08.2021. However, the first respondent, by order dated 16.09.2021, returned the appeal on the ground that the appeal should be filed within the period as contemplated under Section 7(7) of the Act, which provides only 60 + 60 days. Aggrieved over the same, this Writ Petition is filed.

4.In support of this Writ Petition, the learned counsel for the petitioner has also relied upon the orders passed by the Honourable Apex Court in Miscellaneous Application No.665 of 2021 in SMW(C) No.3 of 2020, dated 23.09.2021. As per the orders of the Honourable Supreme Court in *Suo Motu Writ Petition (Civil) No.3 of 2020*, dated 08.03.2021, 27.04.2021 and 23.09.2021, the period of limitation for any suit, appeal, applications or proceedings from 15.03.2020 till 02.10.2020 were excluded by the orders of the Honourable Apex Court, considering the present COVID -19 pandemic situation.

5.The order impugned in this Writ Petition is only the order passed by the first respondent/ Appellate Authority in returning the appeal preferred by the writ petitioner as against the order passed by the second respondent in PG.No.162 of 2019, dated 11.12.2020. Considering the COVID-19 outbreak in March 2020, the Honourable Apex Court took *suo motu* cognizance of the difficulties and might be faced by the litigants in filing petitions,



suits/appeals, and other proceedings within a period of limitation prescribed under the general law of limitation or under any special laws, passed certain directions on 15.03.2021, 08.03.2021, 27.04.2021 and 23.09.2021. In the final order passed by the Honourable Apex Court in *Suo Motu* Writ Petition, the Honourable Apex Court has held as follows:-

8. Therefore, we dispose of the M.A.No.665 of 2021, with the following directions:-

I. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 02.10.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2021, if any, shall become available with effect from 03.10.2021.

II. In cases where the limitation would have expired during the period between 15.03.2020 till 02.10.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 03.10.2021. In the event the actual balance period of limitation remaining, with effect from 03.10.2021, is greater than 90 days, that longer period shall apply.

III. The period from 15.03.2020 till 02.10.2021 shall also stand excluded in computing the periods prescribed under Sections 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

6. Since the order impugned in this Writ Petition is only an administrative order in entertaining the appeal passed by the first respondent and in view of the orders of the Honourable Apex Court, this petition is allowed without notice to the third respondent and the order of return passed by the first respondent in Na.Ka.No.Aa/1589/2021, dated 16.09.2021 is set aside. The first respondent is directed to entertain the appeal filed by the writ petitioner and to number the same and to decide the same in accordance with law.



7. With the above direction, this Writ Petition is allowed.
No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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

1. The Appellate Authority under
the Payment of Gratuity Act/
The Additional Commissioner of Labour,
Office of the Joint Commissioner of Labour,
Trichy.

2. The Controlling Authority under
the Payment of Gratuity Act/
The Deputy Commissioner of Labour,
Office of the Deputy Commissioner of Labour,
Dindigul.

+1 CC to M/s.G.MOHAN KUMAR, Advocate (SR-34244[F] dated
12/11/2021)

+1 CC to M/s.SPL.GP (SR-34281[F] dated 12/11/2021)

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