



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2022

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.5469, 5474 OF 2022

AND

W.M.P.NO.5560 OF 2022

The Managing Director,
Krishnagiri Co-operative Spinning Mills Ltd.
Uthangarai, Krishnagiri District 635 207.

... Petitioner in both W.Ps.

Vs.

1. The Additional Commissioner of Labour,
(Appellate Authority under the Payment
of Gratuity Act), Dr.Balasundaram Road,
Coimbatore - 641 018.

... 1st Respondent in both W.Ps.

2. K.S.Govindaraj

... 2nd Respondent in W.P.No.5469 of 2022

2. P.Sampath

... 2nd Respondent in W.P.No.5474 of 2022

3. The Joint Commissioner of Labour,
(Controlling Authority under the Payment
of Gratuity Act), Yercaud main Road,
Sevilimedu, Salem - 636 005.

... 3rd Respondent in both W.Ps.

Prayer in W.P.No.5469 of 2022:

The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records of the first respondent relating to the return order in AthiMuNo. Aa/4226/2021 and Aa/4227/2021 dated 14.12.2021 and quash the same and consequently, direct the first respondent to number the appeal against the order of the original authority without insisting for the deposit of the award amount and quash the same.



Prayer in W.P.No.5474 of 2022:

The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the records of the first respondent relating to the return order in AthiMuNo. Aa/4226/2021 and Aa/4227/2021 dated 14.12.2021 and quash the same and consequently, direct the first respondent to number the appeal against the order of the original authority without insisting for the deposit of the award amount.

For Petitioner in : Mr.P.Srinivas
both W.Ps.
For Respondents 1 &3 : Mr.A.M.Ayyadurai, G.A.
In both W.Ps.

COMMON ORDER

Both the writ petitions are filed by the very same petitioner challenging the return of the appeal papers in respect of Appeal in P.G. No.169 and 170 of 2021 by the Appellate Authority viz., the first respondent herein. Therefore, both the writ petitions are disposed of by the common order.

2. By the consent of parties, both the writ petitions are taken up for final disposal.

3. According to the petitioner, the petitioner preferred an appeal before the Appellate Authority viz., the Additional Commissioner, Labour. The appeal papers are returned on the ground that the petitioner has filed the appeal without complying with the precondition to deposit the award amount. The petitioner has also filed an application for waiver of depositing the award amount. Challenging the return of the appeal papers, the petitioner has filed the present writ petition before this Court.

4. According to the learned counsel appearing for the petitioner, challenging the said order, the writ petition is filed on 28.2.2022 and the same is pending before this Court. The counsel for the petitioner seeks direction to the authorities concerned to entertain the said appeal along with the application and condone the period of delay from the date of filing the writ petition before this Court. The respondent may not have any serious objection for re-presenting the appeal papers with explanation for the defects pointed out by the first respondent.



5. In view of the above, this Court is inclined to pass the following order:

i) The writ petitioner is directed to re-present the appeal papers along with the application within one week from the date of receipt of copy of the order by complying with the defects pointed out by the first respondent.

ii) On receipt of appeal papers along with application, the respondent is directed to consider the same and pass appropriate orders on merit and in accordance with law, if it is otherwise in order.

iii) Insofar as the precondition of depositing the award amount is concerned, this Court is not inclined to express any opinion on merit since it is for the authority concerned to take appropriate decision in the application submitted by the petitioner.

6. Accordingly, the writ petition stands disposed of with the above directions. No Costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Commissioner of Labour,
(Appellate Authority under the Payment of Gratuity Act),
Dr.Balasundaram Road, Coimbatore - 641 018.

2. The Joint Commissioner of Labour,
(Controlling Authority under the Payment of Gratuity Act),
Yercaud main Road, Sevilimedu, Salem - 636 005.

+1cc to Mr.P.Srinivas, Advocate, S.R.No.16913

+1cc to the Government Pleader, S.R.No.17031

W.P.No.5469 and 5474 of 2022
and W.M.P.No.5560 of 2022

MT (CO)
RLP (04/04/2022)