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W.P.No.4789 of 2020 etc

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05.12.2022

Coram

The HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

**W.P.Nos.4789,3392,4847,20204 & 4781 of 2020
and W.M.P.Nos.5659, 3953, 5726, 5648, 24965
and 24967 of 2020**

W.P.No.4789 of 2020

The Management,
Sri Dhamodharan Roadways
1-B Sivarathirimadam Street,
Tiruvannamalai – 606 601.

.. Petitioner

Vs

1.The Deputy Commissioner of Labour,
O/o. Joint Commissioner of Labour,
Vellore.

2.S.Chinnasamy

.. Respondents

W.P.No.3392 of 2020

The Management,
Sri Dhamodharan Roadways
1-B Sivarathirimadam Street,
Tiruvannamalai – 606 601.

.. Petitioner

Vs

1.The Deputy Commissioner of Labour,
O/o. Joint Commissioner of Labour,
Vellore.

2.V.R.Kannan

.. Respondents



W.P.No.4789 of 2020 etc

W.P.No.4847 of 2020

The Management,
Sri Dhamodharan Roadways
1-B Sivarathirimadam Street,
Tiruvannamalai – 606 601.

.. Petitioner

Vs

1.The Deputy Commissioner of Labour,
O/o. Joint Commissioner of Labour, Vellore.

2.C.Kaliyamoorthi

.. Respondents

W.P.No.4781 of 2020

The Management,
Sri Dhamodharan Roadways
1-B Sivarathirimadam Street,
Tiruvannamalai – 606 601.

.. Petitioner

Vs

1.The Deputy Commissioner of Labour,
O/o. Joint Commissioner of Labour, Vellore.

2.D.Sankar

.. Respondents

W.P.No.20204 of 2020

The Management,
Sri Dhamodharan Roadways
1-B Sivarathirimadam Street,
Tiruvannamalai – 606 601.

.. Petitioner

Vs

1.The Deputy Commissioner of Labour,
O/o. Joint Commissioner of Labour, Vellore.

2.T.Kannan

.. Respondents



W.P.No.4789 of 2020 etc

WEB COPY

Prayer in W.P.No.4789 of 2020: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records relating to the impugned order of the first respondent passed in PG.IA.No.27/2019 dated 29.11.2019 and quash the same.

Prayer in W.P.No.3392 of 2020: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records relating to the impugned order of the first respondent passed in PG.IA.No.25/2019 dated 29.11.2019 and quash the same.

Prayer in W.P.No.4847 of 2020: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records relating to the impugned order of the first respondent passed in PG.IA.No.24/2019 dated 29.11.2019 and quash the same.

Prayer in W.P.No.4781 of 2020: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records relating to the impugned order of the first respondent passed in PG.IA.No.28/2019 dated 29.11.2019 and quash the same.

Prayer in W.P.No.20204 of 2020: Petition filed under Article 226 of the Constitution of India praying to issue a writ of



W.P.No.4789 of 2020 etc

certiorari calling for the records relating to the impugned order of the first respondent passed in PG.IA.No.26/2019 dated 29.11.2019 and quash the same.

For Petitioner	:	Mr.K.L.Sekar (in all writ petitions)
For Respondents	:	Mr.D.Ravichander Special Government Pleader for R1 Mr.S.T.Varadarajulu for R2 (in all writ petitions)

COMMON ORDER

These writ petitions have been filed by the Management aggrieved by the separate orders passed by the first respondent under the Payment of Gratuity Act, 1972 r/w Tamil Nadu Payment of Gratuity Rules, 1973 under which the delay of 193 days in submitting the claim by the respective second respondent(s) seeking payment of the respective gratuity amount from the petitioner/management was condoned.

2. All the applications were filed for condonation of delay. The respective second respondent(s) have stated that earlier they had



W.P.No.4789 of 2020 etc

approached the petitioner/management for payment of gratuity and had given several representations, but despite their assurance, they were not paid the same. According to them, only under those circumstances, there arose a delay in submitting the applications before the first respondent seeking for payment of gratuity. The first respondent, after giving due consideration to the reasons given by the respective second respondent(s) seeking for condonation of delay, has condoned the delay after being satisfied with the reasons given by the respective second respondent(s).

3. These writ petitions have been filed challenging the order of the first respondent condoning the delay of the respective second respondent(s) in seeking payment of gratuity under the Payment of Gratuity Act, 1972 and as per Rule 10 of the Tamil Nadu Payment of Gratuity Rules, wherein it has been stipulated that an employee will have to make a claim before the controlling authority (first respondent herein) within a period of 90 days from the occurrence of the cause of action. However, the proviso to the said Rule makes it clear that the controlling authority is having the power to accept any application seeking for payment of gratuity by the employee even if the same is filed beyond the period of 90 days, provided the



W.P.No.4789 of 2020 etc

employee shows sufficient cause for not submitting the application within a period of 90 days. In the instant case, only due to the reason that the respective second respondent(s) had earlier approached the petitioner/management seeking for payment of the respective gratuity amount by making several representations, they did not submit the applications before the first respondent seeking for payment of their respective gratuity amount on time. The first respondent has considered the reason given by the respective second respondent(s) and only thereafter has held that sufficient cause has been shown by the respective second respondent(s) for condoning the delay.

4. This Court does not find any infirmity in the order of the first respondent. Being a labour welfare legislation, the interests of respective second respondent(s), who are employees of the petitioner/ management have to be protected.

5. For the foregoing reasons, this Court does not find any merit in these writ petitions. Accordingly, these writ petitions are dismissed. However, the first respondent is directed to pass final orders on the claims of the respective second respondent(s) seeking for payment of gratuity after affording a fair hearing to the petitioner/



W.P.No.4789 of 2020 etc

management within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

05.12.2022

Index:Yes/No
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To

The Deputy Commissioner of Labour,
O/o. Joint Commissioner of Labour,
Vellore.



WEB COPY



W.P.No.4789 of 2020 etc

ABDUL QUDDHOSE,J.

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W.P.No.4789 of 2020 etc

05.12.2022