



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM

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

W.P.NO.19035 OF 2016

AND

W.M.P.NO.16583 OF 2016

The Commissioner,
Coimbatore Corporation,
Coimbatore.

... Petitioner

.Vs.

1. M.Kandasamy

2. The Assistant Commissioner of Labour
The Controlling Authority under the
Payment of Gratuity Act, 1972,
Office of the Deputy Commissioner of Labour,
Coimbatore - 641 018.

... Respondent

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the order passed by the Second Respondent in G.A.No.287 of 2013 dated 08.10.2015 and quash the same.

For Petitioner : Mr.K.Magesh

For Respondents : Not Ready in Notice (For R1)

Mr.V.Jeevagiridharan
Additional Government Pleader
(For R2)

O R D E R

Heard Mr.K.Magesh, Learned Counsel appearing for the Petitioner and Mr.V.Jeevagiridharan, Learned Additional Government Pleader appearing for the Second Respondent, and perused the materials placed on record, apart from the pleadings of the parties.



2. The Second Respondent by an order dated 08.10.2015 in G.A.No.287 of 2013 granted the claim for gratuity under Section 7(4) of the Payment of Gratuity Act, 1972, made by the First Respondent against the Petitioner, who had received a copy of that order on 12.10.2015. 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 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. However, the Petitioner did not prefer any such appeal before the Appellate Authority but instead had filed this Writ Petition on 01.06.2016 challenging the order passed by the Second Respondent beyond the maximum limitation period of 120 days from the date of receipt of the copy of that order.

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 Second Respondent.

In the result, the Writ Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Maya

To

1. The Commissioner,
Coimbatore Corporation,
Coimbatore.



2. The Assistant Commissioner of Labour
The Controlling Authority under the
Payment of Gratuity Act, 1972,
Office of the Deputy Commissioner of Labour
Coimbatore - 641 018.

WEB COPY

+1cc to Mr.K.Magesh, Advocate, S.R.No.35419
+1cc to the Government Pleader, S.R.No.36188

W.P.No.19035 of 2016

EV (CO)
PBS/21/06/2022