



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2022

CORAM

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

W.P. No. 29292 of 2017
and
W.M.P. No. 31548 of 2017

The Management,
Tamil Nadu State Transport Corporation
(Coimbatore) Limited,
37, Mettupalayam Road,
Coimbatore - 641 043.

... Petitioner

-vs-

1. The Assistant Commissioner of Labour,
O/o. The Deputy Commissioner of Labour,
Coimbatore- 18.

2. D.Selvarajan

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the order dated 06.04.2017 passed in G.A. No. 4 of 2017 on the file of the Assistant Commissioner of Labour, Coimbatore and quash the same as being illegal, arbitrary and unconstitutional.

For Petitioner : Mr. Varunkumar
For Mr. K.J.Sivakumar

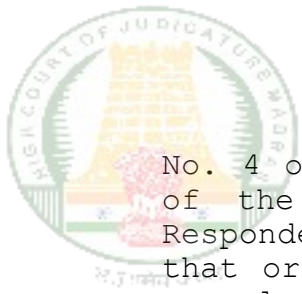
For Respondents : Mrs. C.Sangamithirai (for R1)
Special Government Pleader

R2 - No appearance

O R D E R

Heard Mr. M.Varunkumar, Learned Counsel appearing for the Petitioner and Mrs. C.Sangamithirai, Learned Special Government Pleader for the First Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. The First Respondent by an order dated 06.04.2017 in G.A.



No. 4 of 2017 granted the claim for gratuity under Section 7(4) of the Payment of Gratuity Act, 1972, made by the Second Respondent against the Petitioner, who had received a copy of that order on 29.05.2017. 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 13.11.2017 challenging the order passed by the First 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 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 is clarified 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 that order of the First Respondent.

4. The Writ Petition is dismissed with the aforesaid observations. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Maya



To

1. The Managing Director,
Tamil Nadu State Transport Corporation (Coimbatore) Limited,
37, Mettupalayam Road,
Coimbatore - 641 043.
2. The Assistant Commissioner of Labour,
O/o. The Deputy Commissioner of Labour,
Coimbatore- 18.

+1cc to Mr. K.J.Sivakumar, Advocate, S.R.No.9331

W.P. No. 29292 of 2017

SSN(CO)
CT 17/02/2022