



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2022

CORAM:

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THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.6519 of 2021
and W.M.P.(MD)No.5077 of 2021

The Management,
Tamil Nadu Civil Supplies Corporation,
Rep. by its Regional Manager,
Kuruvikkaran Salai,
Madurai - 20.

... Petitioner

versus

1. The Appellate Authority
under the Payment of Gratuity Act,
(Additional Commissioner Labour)
Housing Board Office Building,
Ellis Nagar, Madurai - 625 016.
2. The Authority of the Payment of Gratuity Act,
O/o. Deputy Commissioner of Labour,
Race Course Road, Madurai.

Kaliaperumal (died)

3. Parvathi
W/o. Late P.M.Kaliaperumal

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records from the second respondent relating to the impugned order made in P.G.No.35/2015 dated 06.03.2019 and consequently, the impugned order passed by the first respondent made in AA.Thi.Mu.E.No.785/2020, dated 27.08.2020 and quash the same.

For Petitioner: Mr.R.Saravanan
For R1 and R2 : Mr.V.Nirmal Kumar
Government Advocate
For R3 : Mr.S.Arunachalam

ORDER

This writ petition is filed as against the order dated 27.08.2020, in and by which, the appellate authority, namely, the first respondent refused to entertain the appeal filed by the petitioner Corporation, on the ground of limitation.



2. The third respondent's husband, P.M.Kaliaperumal, joined in the petitioner Corporation on 22.08.1983 and after rendering 28 years of service, he retired from service as Pattial Clerk on 30.12.2011. After retirement, he was not paid the gratuity amount. Since he died, his wife, namely, the third respondent herein filed a petition in P.G.No.35 of 2015 before the second respondent. After hearing both sides, the second respondent, on 06.03.2019, passed an order directing the petitioner Corporation to pay a sum of Rs.2,41,452/- towards gratuity. Aggrieved over the same, the Transport Corporation has preferred an appeal before the appellate authority, namely, the first respondent herein. The appellate authority, vide order dated 27.08.2020, refused to entertain the appeal on the ground that the appeal is filed beyond the period of 120 days. Challenging the same, the present writ petition has been filed by the petitioner Corporation.

3. Section 7 (7) of the Payment of Gratuity Act, 1972, provides for appeal against the order of the Controlling Authority. The said provision reads as under:

"(7) Any person aggrieved by an order under sub-section (4) may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf:

Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days.

[Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either produces a certificate of the controlling authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under sub section (4), or deposits with the appellate authority such amount]."

4. Admittedly, the appeal has been filed before the appellate authority beyond the period of 120 days. The petitioner Corporation has not explained any sufficient cause for the delay in filing the appeal beyond the period of limitation and not placed any material for the same. Therefore, the appellate authority has rightly refused to entertain the appeal, based on the provisions under Section 7(7) of the Payment of Gratuity Act, 1972. Hence, this



Court is not inclined to entertain the writ petition. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2022

Sub Assistant Registrar

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,
(Additional Commissioner Labour)
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2. The Authority of the Payment of Gratuity Act,
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+1 CC to M/s.SPL.GP (SR-156[F] dated 04/01/2022)

+1 CC to M/s.R.SARAVANAN, Advocate (SR-266[F] dated 05/01/2022)

W.P(MD)No.6519 of 2021

03.01.2022

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