



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.6719 of 2021
and
W.M.P.(MD)No.5174 of 2021

The Management,
Tamil Nadu Civil Supplies Corporation,
through its Regional Manager,
Kuruvikkaran Salai,
Madurai - 625 050.

... 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.

Gnanasekaran (died)

3. G.Senthil

4. G.Nirmalkumar

5. Nagalakshmi

... 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.3/2017 dated 06.05.2019 and consequently, impugned order passed by the first respondent made in AA.Thi.Mu.E.No.784/2020 dated 27.08.2020 and quash the same as illegal.

For Petitioner: Mr.R.Saravanan
For R1 and R2 : Mr.V.Nirmal Kumar
Government Advocate
For R3 and R4 : 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 fourth respondent's father, Gnanasekaran, was appointed as Assistant on 10.11.1982 in the Paddy Procurement Centre and after rendering 33 years of service, he attained superannuation on 31.07.2015. Since he was not paid the gratuity amount, he filed P.G.No.3 of 2017 before the second respondent, claiming gratuity amount of Rs.3,79,417/-. During the pendency of the gratuity petition, the said Gnanasekaran died and therefore, his legal heirs were brought on record. The petitioner Corporation took a stand before the second respondent that the fourth respondent's father worked as a seasonal employee and he had not worked continuously for more than 75 percent of number of working days in every season and therefore, he is not entitled for gratuity as claimed by him. After hearing both sides, the second respondent, on 06.05.2019, passed an order directing the petitioner Corporation to pay a sum of Rs.3,58,075/- towards gratuity to the legal heirs of the said Gnanasekaran. Aggrieved over the same, the petitioner 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 subsection (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]."

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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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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)
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.

+1 CC to M/s.S.CHINNAIAN, Advocate (SR-57[F] dated 04/01/2022)

+1 CC to M/s.SPL.GP (SR-157[F] dated 04/01/2022)

+1 CC to M/s.R.SARAVANAN, Advocate (SR-267[F] dated 05/01/2022)

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