



W.P.(MD) No.18954 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.18954 of 2022
and W.M.P.(MD).No.13825 of 2022

The Regional Manager,
Tamilnadu Civil Supplies Corporation,
Dindigul Region,
District Collector Office Campus,
Dindigul District.

... Petitioner

Vs.

1.The Appellate Authority under the
Payment of Gratuity Act/
The Joint Commissioner of Labour,
Office of the Joint Commissioner of Labour,
Trichy.

2.The Controlling Authority under
The Payment of Gratuity Act/
The Deputy Commissioner of Labour,
Office of the Deputy Commissioner of Labour,
Dindigul.

3.V.Rajkumar

... Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India to
issue a writ of Certiorarified Mandamus, calling for the records pertaining to



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the impugned orders passed by the 1st respondent in Na.Ka.No.Aa/898/2022, dated 06.04.2022 and quash the same and consequently, direct the 1st respondent to entertain the appeal filed by the petitioner against the order passed by the 2nd respondent in PG.No.166 of 2019, dated 01.11.2021 on merits and in accordance with law.

For Petitioner : Mr.G.Mohan Kumar

For Respondents : Mr.A.Sivanu Pandian for R1 and R2
Government Advocate

ORDER

By consent of the petitioner and the respondents 1 and 2, this writ petition is taken up for final disposal at the admission stage itself. Since the issue involved in the present writ petition does not affect the interest of the third respondent, insofar as it restricts the period of calculation of limitation, notice to third respondent is dispensed with.

2. As against the order of the Controlling Authority under the Payment of Gratuity Act, dated 01.11.2021, the petitioner had preferred an appeal before the Appellate Authority / first respondent herein on 31.03.2022, which came to be returned through the impugned proceedings, dated 06.04.2022,



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stating that the appeal is barred by limitation, in view of Section 7(7) of the Payment of Gratuity Act.

3. Section 7(7) of the Act, provides a period of 60 days to prefer an appeal against the order of the Controlling Authority, with a further period of 60 days for condoning the delay in preferring the appeal. In the instant case, when the period of limitation expired for filing an appeal, there was an onset of COVID – 19 Pandemic, owing to which, the Honourable Supreme Court in a *suo motu* proceedings in SMW(C).No.3 of 2020, had ordered that the period between 15.03.2020 and 28.02.2022, shall stand excluded for the purposes of calculating the limitation period.

4.If the direction of the Honourable Supreme Court is applied to the present case, the period ending on 28.02.2022 for preferring the appeal, requires to be excluded. In other words, the limitation period for preferring the appeal would commence from 01.03.2022. If so calculated, the petitioner is deemed to have filed the appeal in time, within the prescribed period of 60 days, under Section 7(7) of the Act and thus, the appeal filed on 31.03.2022 is



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well within the time. As such, the impugned order passed by the first respondent herein, returning the petitioner's appeal, cannot be sustained.

5. Accordingly, the impugned order passed by the first respondent in Na.Ka.No.Aa/898/2022, dated 06.04.2022, is hereby set aside. Consequently, there shall be a direction to the first respondent to take up the petitioner's appeal, dated 31.03.2022, filed against the order of the second respondent in P.G.No.166 of 2019, dated 01.11.2021, on file and dispose of the same in accordance with law, as expeditiously as possible.

6. The writ petition stands thus allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Speaking Order/ Non Speaking Order
TM

To

1.The Appellate Authority under the
Payment of Gratuity Act/
The Joint Commissioner of Labour,
Office of the Joint Commissioner of Labour,
Trichy.

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2.The Controlling Authority under
The Payment of Gratuity Act/
The Deputy Commissioner of Labour,
Office of the Deputy Commissioner of Labour,
Dindigul.



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M.S.RAMESH,J.

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