



W.P.No.26815 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05..06..2023

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

Writ Petition No.26815 of 2013

and

M.P.No.1 of 2013

The Managing Director,  
Metropolitan Transport Corporation,  
Pallavan House,  
Anna Salai,  
Chennai 600002.

..... Petitioner

-Versus-

1.M.Krishnan

2.The Joint Commissioner of Labour,  
Labour Welfare Office Building VI Floor,  
D.M.S.Complex, Teynampet,  
Chennai 600 006.

3.The Assistant Commissioner (Gratuity) I,  
D.M.S. Office, First Floor,  
Chennai 600 006.

..... Respondents

Petition filed under Article 226 of The Constitution of India, praying to issue a writ of certiorari calling for the records pertaining to the order dated 10.05.2013 made in P.G.Appeal SR No.E/1140/2013 on the file of the 2<sup>nd</sup> respondent herein and to quash the same.



WEB COPY



W.P.No.26815 of 2013

*For Petitioner : Mr.M.Chidambaram*

*For Respondents : Mr.D.Bharathy for R1*

*Mr.J.C.Durai Raj,  
AGP for RR2 and 3*

### **ORDER**

This writ petition has been filed challenging the order passed by the 2<sup>nd</sup> respondent dismissing the petition filed to condone the delay in filing the appeal as against the order of the 3<sup>rd</sup> respondent.

2. The appeal deals with the interpretation of sub-section (7) of Section 7 of the Payment of Gratuity Act, 1972 [for short “**the Act**”]. As per Section 7 of the Act, appeal must be filed within a period of 60 days from the date of receipt of a copy of the order. A further period of 60 days is provided after the expiry of the original period of 60 days. Here is a case, where the order was passed on 12.04.2011. It was received by the writ petitioner on 08.03.2012. The appeal came to be filed only on 20.03.2013. There is no explanation in the affidavit as to why there was a delay beyond the period provided under sub-section (7) of Section 7 of the Act. The only reason is 'aforesaid administrative reason'. The learned appellate authority was not satisfied and, therefore, it did not condone the delay under proviso appended to subsection (7) of Section 7 of the Act.

3. Further, the power to condone the delay does not exceed 120 days in all. The appeal filed after the expiry of the cumulative period of 120 days is



W.P.No.26815 of 2013

hopelessly barred. The appellate authority did not have the jurisdiction to condone the delay beyond 60 days. In any event, it was right in refusing to condone the delay. It does not call for any interference at the hands of this court.

4. In addition, I have gone through the affidavit filed in support of the condone delay petition. I did not find any cause much less sufficient cause to condone the delay. Therefore, the impugned order is sustained and the writ petition is liable to be dismissed.

In the result, the writ petition is dismissed. No costs. Consequently, connected MP is closed.

05..06..2023

Index : yes / no  
Neutral Citation : yes / no  
Speaking / Non Speaking Order  
kmk

To

- 1.The Joint Commissioner of Labour, Labour Welfare Office Building VI Floor, D.M.S.Complex, Teynampet, Chennai 600 006.
- 2.The Assistant Commissioner (Gratuity) I, D.M.S. Office, First Floor, Chennai 600 006.



WEB COPY



*W.P.No.26815 of 2013*

V.LAKSHMINARAYANAN, J.

*kmk*

W.P.No.26815 of 2013

05..06..2023