



W.P.No.20316 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.20316 of 2023
and
W.M.P.No.19682 of 2023

The Tamil Nadu Civil Supplies Corporation,
(Chennai - South Region),
Represented by its Regional Manager,
Having its registered Office at
No.9, Conron Smith Road,
Gopalapuram,
Chennai - 600 086.

... Petitioner

Vs.

1. The Appellate Authority,
Under the Payment of Gratuity Act,
Labour Welfare Board Building (6th Floor),
D.M.S. Campus, Teynampet,
Chennai – 600 006.
2. The Controlling Authority of Gratuity,
Under the Payment of the Gratuity Act, 1972 /
The Assistant Commissioner of Labour (i/c),
The Office of the Joint Commissioner of Labour-I,
Chennai – 600 006.

3. S.Rathinam

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records passed by the first respondent in N.E./1539/2023 dated 16.06.2023 quash the same and consequently, direct the first respondent to take the file in P.G.I.A.No. Nil in P.G.No.59 of 2018 and after considering the legality ad propriety.

For Petitioner : Mrs.Pusphamenon
for Mr.C.Selvaraj-Standing Counsel

ORDER

This Writ Petition has been filed to call for the records of the first respondent in N.E./1539/2023 dated 16.06.2023 and quash the same and consequently, direct the first respondent to take the file in P.G.I.A.No. Nil in P.G.No.59 of 2018 and after considering the legality ad propriety.

2. The case of the petitioner is that the third respondent was employed only as a Seasonal employee with the petitioner Corporation. However, he filed an application in P.G.No.59 of 2018 before the second respondent claiming the payment of gratuity for the entire period from 1975



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to 2010 as if he was in regular employment with the petitioner Corporation.

The petitioner Corporation filed counter statement. The said application was allowed by the Controlling Authority / Original Authority under the Payment of Gratuity Act by order dated 24.09.2021 directing payment of gratuity to sum of Rs.2,04,951/- along with interest at the rate of 10% per annum within a period of thirty days. Since the said order was not complied with, the third respondent preferred a Writ Petition in W.P.No.3326 of 2023 which was disposed of by this Court with a direction to the first respondent therein to comply with the order passed by the Controlling Authority under the Payment of Gratuity Act.

3. Challenging the order passed by the Controlling Authority, the petitioner Corporation preferred an appeal before the concerned authority under the Payment of Gratuity Act with an application for condonation of delay along with the Bank draft of the award amount on 12.06.2023. It is pertinent to note that the demand draft had been acknowledged by the Deputy Commissioner of Labour. However, the first respondent passed the



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impugned order dated 16.06.2023 stating that the delay in filing in appeal is 620 days and further, the demand draft for the award amount has not been placed before her and hence, the appeal was rejected. As against the said order of rejection of appeal, the present Writ Petition has been filed.

4. The learned counsel for the petitioner submitted that the rejection of the appeal filed by the petitioner results in the finality of the earlier order passed by the Controlling Authority which is far-reaching consequences since all the Seasonal Employees of the petitioner Corporation would lay claim for gratuity as if they worked as regular employees of the petitioner Corporation, which is in direct contravention of the statutory provisions of the payment of Gratuity Act. That apart, the first respondent has not issued any notice to the third respondent and has not given any opportunity to the petitioner before dismissing the application. The petitioner had enclosed the bank draft for the entire sum awarded by the second respondent along with their appeal. The contention of the learned counsel for the petitioner is that the first respondent has exceeded its jurisdiction in



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passing the impugned order as the demand draft was presented before the Deputy Commissioner of Labour, who is the superior authority than the second respondent who was in possession of the demand draft which was not at all considered by the first respondent before passing the impugned order.

5. The appeal filed by the petitioner has not been entertained by the Appellate Authority, the third respondent had already withdrawn the amount which was deposited by the petitioner before the Original Authority.

6. I have considered the submissions made by the learned counsel appearing for the petitioner and have perused the materials placed before this Court.

7. Section 7(7) of the Payment of Gratuity Act, 1972 reads as follows:



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“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.”

8. It is clear that any person aggrieved by the order of the Original Authority under Sub-section 4 of the Act within sixty days from the date of receipt of the order, prefer an appeal before the appropriate Government and the Appellate Authority if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within a period of sixty days, extend the said period by a further period of sixty days. Hence, by a bare reading of the provision, it is clear that the appeal if it has to be preferred, has to be filed maximum period of 120 days from the date of order of the Original Authority. However, in the present case on hand, the appeal has been preferred after a huge delay of 620 days. Hence, the contention raised by the petitioner that he has produced the demand draft along with the application for condonation of delay cannot be accepted. For a simple reason that the Act itself as provided only 120 days as the outer time limit for preferring the appeal.



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9. Finding no merits in the Writ Petition, the same is dismissed.

No costs. Consequently, connected Miscellaneous petition is closed.

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NCC: Yes / No

Index : Yes / No

Speaking Order : Yes / No

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