



W.P. No. 24673 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2023

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. Nos.24673 and 24674 of 2017

M/s.Prabhat Publishers Pvt. Ltd.
Rep. by its Director, Shri Pawan Kumar Mattli
Plot No.B-21, B-21, B-35, PIPDIC Industrial Estate
Sedarapet, Puducherry.

... Petitioner in both the petitions

-VS-

1. Appellate Authority under the Payment of
Gratuity Act, 1972
Labour Department Complex-II Floor
Vazhudavur Road, Gandhi Nagar
Puducherry – 605 009. ...1st respondent in both the petitions

2. Tmt.S.Prameswari ... 2nd Respondent in W.P.No.24673 of 2017

3. K.Janaki ... 2nd Respondent in W.P.No.24674 of 2017

Common Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent comprised in his impugned order dated 29.06.2017 in Appeal Nos.3 and 1 of 2017 in P.G. Nos. 82 and 83 of 2016, and quash the same and consequently, direct the first respondent to take up the appeal and decide the matter on merits after condoning the delay in making the deposit, inasmuch as the deposit has been made within the time prescribed under the Act.

For Petitioner : Mr.Rahul Balaji



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W.P. No. 24673 of 2017

For Respondents : R2 – No appearance
R1-Court

COMMON ORDER

Since the issue involved in both the cases are one and the same, the same are disposed of by way of this common order.

2. The writ petitions have been filed seeking to quash the order of the first respondent comprised in impugned order dated 29.06.2017 in Appeal No.3 and 1 of 2017 in P.G. Nos. 82 and 83 of 2016 and consequently, direct the first respondent to take up the appeal and decide the matter on merits after condoning the delay in making the deposit, inasmuch as, the deposit has been made within the time prescribed under the Act.

3. It is the case of the petitioner that it is a private limited company and the petitioner company was constrained to close down its business due to lack of work. On 14.01.2016, a mutual agreement was entered into between the Management and all the employees who worked in the petitioner company under Section 18(1) of ID Act, whereby the management of the petitioner company has paid full and final settlement to all their employees who worked



W.P. No. 24673 of 2017

in the petitioner company. The second respondent in both the case have filed a petition in PG.Nos.83 and 84 of 2016 before the controlling authority claiming gratuity. The Labour Court vide its order dated 19.09.2016 disposed of the petition by directing the petitioner to pay a sum of Rs.43,200/- to the workmen. Challenging the same, the petitioner company preferred appeal before the appellate authority in Appeal Nos.1 and 3 of 2017. The Appellate authority, vide order dated 29.06.2017, dismissed the appeal. Aggrieved over the same, both the writ petitions have been filed.

4. The learned counsel for the petitioner Company submitted that the petitioner preferred appeal within a period of 60 days and payment was made within a period of 120 days, in which, the respondent have power to condone the delay. However, the appellate authority has dismissed the appeal. This Court may remand the matter back to the appellate authority and direct the appellate authority to decide the issue on merits.

5. Heard the learned counsel for the petitioner and perused the materials available on record. There is no representation on behalf of the second respondent in both the cases.



W.P. No. 24673 of 2017

6. As against the order of the controlling authority, the petitioner has filed appeal within a period of 60 days and the petitioner has filed condone delay petition to deposit the award amount, due to which, the appellate authority has dismissed appeal.

7. It is the grievance of the petitioner that the appellate authority have power to condone the delay. However, he has mechanically dismissed the appeal on the ground of delay in depositing the award amount.

8. In such view of the matter, this Court is inclined to remand both the appeal before the first respondent/appellate authority within a period of four weeks from the date of receipt of a copy of this order and the first respondent shall decide the issue on merits after hearing the petitioner as well as the workmen within a period of eight weeks thereafter.

9. With the above terms, both the writ petitions are allowed. No costs.

07.08.2023

Rli



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W.P. No. 24673 of 2017

M.DHANDAPANI, J.

Rli

Index: Yes/No

NCS : Yes/No

To

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