



W.P.No.32090 of 2023 & W.M.P. No.31665 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

W.P.No.32090 of 2023 & W.M.P. No.31665 of 2023

The Managing Director
Vellore Co-operative Sugar Mills Limited
Ammundi
Vellore District 632 519

... Petitioner

Vs.

1. The Additional Commissioner of Labour,
(Appellate Authority under
Payment of Gratuity Act, 1972),
VI Floor, DMS Complex,
Teynampet, Chennai 600 006.

2. The Deputy Commissioner of Labour,
(Controlling Authority under
Payment of Gratuity Act, 1972)
Office of Joint Commissioner of Labour,
Melmonavoor, Vellore 632 010.

3. P. Malaikallan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in Letter No.E/2238/2023 dated 01.09.2023, quash the same and consequently direct the 1st respondent to take the Appeal on file.



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For Petitioner : Mr. D.Gopal
For R1 & R2 : Mrs.C.Meera Arumugam
Additional Government Pleader
For R3 : Mr. R. Vimal

ORDER

Challenging the orders passed by the Additional Commissioner of Labour in Letter No.E/2238/2023 dated 01.09.2023, the present Writ Petition is filed by the Vellore Co-operative Sugar Mills Limited.

2. The 3rd respondent filed an application in P.G. No.18/2019 before the Assistant Commissioner of Labour, Vellore under Section 4 of the Payment of the Gratuity Act, 1972 (herein after referred to as "the Act"). The Assistant Commissioner of Labour, vide her orders dated 07.02.2023, directed the petitioner Management to pay a sum of Rs.3,57,692/- together with interest at the rate of 10% per annum from the date of receipt of a copy of the order. Aggrieved over the same, the present Writ Petitioner Management filed an appeal before the 1st respondent, Additional Labour Commissioner, Chennai. The said application was returned for the reason that the Appeal was not filed



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within a period of 120 days from the date of receipt of the order passed by the Assistant Commissioner of Labour in P.G. No.18/2019.

Challenging the same, the present Writ Petition is filed.

3. Mr. D.Gopal, learned counsel for the Writ Petitioner would contend that even though the Assistant Commissioner of Labour passed the order on 07.02.2023, they got a copy of the order only on 17.03.2023 and they were calculating the amount payable to the 3rd respondent till May 2023 and therefore, they were not in a position to file an appeal within the period of 120 days as prescribed under Section 7(7) of the Act. In this regard, it is appropriate to extract Section 7(7) of the Payment of the Gratuity Act, 1972.

(7) 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:

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:



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4. In the instant case, the petitioner had filed the petition with a delay of 46 days and the reason for the delay has also not been explained by the Writ Petitioner. Therefore, I do not find any infirmity in the orders passed by the 1st respondent and accordingly the Writ Petition is dismissed as devoid of merits. No costs. Consequently connected Writ Miscellaneous Petition is closed.

27.11.2023

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Index : yes/no

Speaking /Non speaking Order

To

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R.HEMALATHA, J.

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