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W.P.(MD)NO.5341 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.5341 of 2023 AND
W.M.P.(MD)No.4993 of 2023

The Warden,
Men's Hostel,
Madurai Medical College,
Madurai.

... Petitioner

Vs.

1. The Controlling Authority under
The Payment of Gratuity Act 1972
(Deputy Commissioner of Labour),
Madurai.

2. S.Anburose

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the 1st respondent in P.G.No.184/2017 dated 24.08.2022 and quash the same as illegal, arbitrary, non-application of mind and without jurisdiction.

For Petitioner : Mr.M.Aarumugam
For R-1 : Mr.G.Suriyananth,
Additional Government Pleader.
For R-2 : Mr.T.Aswin Rajasimman,
for M/s.Lajapathi Roy & Associates.

* * *

**ORDER**

Heard the learned counsel on either side.

2. The second respondent herein was working as Assistant in Madurai Medical College Men's Hostel, from 1992. He was transferred to P.G. Hostel with effect from 01.07.2015. He left service on 05.08.2015. The second respondent raised a claim for settling his gratuity. Since it was not complied with, he filed P.G.No.184 of 2018 on the file of the first respondent herein. The first respondent herein passed the impugned order dated 24.08.2022 directing the petitioner herein to pay a sum of Rs.2,43,375/-. Questioning the same, the present writ petition has been filed.

3. The second respondent having suffered an award at the hand of the Controlling Authority, ought to have filed an appeal before the appellate authority. The statute stipulates deposit of the award amount. There is also further ceiling of limitation. If the appeal is not filed within the extended period of limitation, it cannot even be entertained. Delay also cannot be condoned if the appeal is filed beyond certain time limits.



Such principles have been engrafted in the statute for the benefit and welfare of the employee. The same cannot be overcome by invoking writ jurisdiction after a lapse of limitation period. Of course under certain exceptional circumstances, even if the appeal remedy is time barred, the writ Court can consider the case if there is patent illegality.

4. Admittedly, the second respondent had joined the men's hostel at Madurai Medical College way back in the year 1992. Ex.R1 filed by the management indicates so. The second respondent had been in service till August 2015. The second respondent had put in service for over 23 years. The last drawn wages is Rs.16,874/-. This is evident from Ex.R.5. The controlling authority had quantified the dues payable to the second respondent on the strength of the records made available by the management. Computation has been correctly made. No case for interference has been made out. I am satisfied that even on merits, the petitioner has not made out a case for interference. This writ petition stands dismissed.

5. Of course I must clarify that the deponent of this affidavit who is an Assistant Professor is acting as a senior warden only in a honorary



capacity, and he cannot be made personally liable. The second respondent has to enforce the impugned award passed in his favour in the manner known to law. With this clarification and observation, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

21.06.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

To:

The Controlling Authority under
The Payment of Gratuity Act 1972
(Deputy Commissioner of Labour),
Madurai.



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G.R.SWAMINATHAN,J.

PMU

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