



W.P.(MD)No.6711 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.6711 of 2023

and

W.M.P.(MD)No.6334 of 2023

The Management,
Nizam Transport,
Railway Feeder Road,
Ramanathapuram.

... Petitioner

Vs.

1.The Authority under the Payment of Gratuity Act,
(Deputy Commissioner of Labour),
O/o. the Joint Commissioner of Labour,
Bharathi Ula Street, Race Course Colony,
Madurai – 625 002.

2.R.Karthigairajan

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the 1st respondent in P.G.No.187/2019 quash the order passed therein on 07.07.2022, grant such other relief(s) as expedient to the facts and circumstances of the matter.



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For Petitioner : Mr.M.Ganesan

For Respondents : Mr.G.Suriyananth,
Addl. Government Pleader for R1.

* * *

ORDER

Heard the learned counsel for the writ petitioner and the learned Additional Government Pleader for the first respondent.

2.The petitioner challenges the impugned order passed by the controlling authority under the Payment of Gratuity Act. The petitioner remained ex-parte before the authority. They also did not file any counter controverting the claim of the workman. The management also did not file any appeal before the appellate authority. The answer given by the petitioner is that after receiving the order copy, they applied to the controlling authority for being furnished with certified copy of certain documents and that the said copy application petition was not complied with by the authority and that is why, the appeal could not be filed. I do not find this explanation to be convincing. The case of the petitioner before this Court is that even though there is reference to filing of proof



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affidavit by the workman, no such proof affidavit was filed and that the documents referred to in the impugned order were not actually filed.

These points could have very well been made as grounds in the appeal. When the management had already been issued with the order copy, limitation for filling appeal would start running from the date of service of the order copy and that subsequent filing of copy application for certain documents will not arrest the limitation.

3.The case of the workman is that he joined the petitioner / management on 05.08.2008 and that he was orally terminated from service on 21.03.2018 and that his last drawn monthly salary was Rs.11,500/-. The learned counsel for the petitioner would claim that the workman was mostly found in a drunken condition and that his claim of having served for more than ten years is clearly false. I called upon the learned counsel for the petitioner to inform me as to when the workman was actually terminated from service. No convincing response is forthcoming. The controlling authority has awarded only a sum of Rs.59,712/-. It is a small sum. If I issue notice in the writ petition, the workman will be needlessly vexed and he will have to incur expenditure to contest the litigation. I went through the contents of the impugned



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order. The controlling authority has given convincing reasons for passing the same. Since the management has not given proper explanation for not filing an appeal before the appellate authority and since substantial grounds have not been urged in support of attack on the impugned award in this writ petition, I decline to interfere. The writ petition stands dismissed *in limine* at the admission stage itself without notice to the respondents. No costs. Consequently, connected miscellaneous petition is closed.

28.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:-

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G.R.SWAMINATHAN,J.

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