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**W.P.(MD) Nos.6958, 6959, 6960, 6961, 6962,
6963, 6964, 6965, 6966, 6967,6968, 6969 &
6970 of 2019**

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.10.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

**W.P.(MD) Nos.6958, 6959, 6960, 6961, 6962, 6963, 6964, 6965, 6966,
6967,6968, 6969 & 6970 of 2019**
and

**W.M.P.(MD) Nos.5546, 5548, 5550, 5552, 5554, 5556, 5558, 5560,
5562, 5564, 5566, 5568 & 5570 of 2019**

W.P.(MD) No.6958 of 2019:

Karur Agricultural Producers
Co-operative Marketing Society Ltd.,
rep.by its the Managing Director
No.145, Jawahar Bazaar
Karur

... Petitioner

-vs-

- 1.The Additional Commissioner of Labour
(The Appellate Authority)
Trichy
- 2.The Assistant Commissioner of Labour
(Controlling Authority under
the Payment of Gratuity Act, 1972)
Dindigul



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3.P.Selvaraj (Died)
Vasanthi

4.Ministry of Labour &
Employment Department
Government of India
rep.by its Secretary
having office at Shram Shakti Bhawan
Rafi Marg
New Delhi-110 001

... Respondents

[R3 is substituted vide Court Order
dated 06.10.2023 in W.M.P.(MD) No.
10280 of 2019 and R4 is impleaded vide
Court order dated 06.10.2023 in W.M.P.
(MD) No.6857 of 2019]

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of declaration to declare that the proviso of Sec.7(7) of Payment of Gratuity Act, 1972 as ultra vires of the constitution and null and void and quash the order passed by the first respondent made in Na.Ka.No.Aa/3986/2018 dated 10.12.2018 and consequently direct the first respondent to entertain the appeal filed by the petitioner and dispose the same in accordance with law within a time stipulated by this Court.

For Petitioner : Mr.P.R.Prithiviraj

For Respondents : Mr.S.Kameswaran
Government Advocate for R1 & R2
Mr.M.Saravanan for R3



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COMMON ORDER

[Order of the Court was made by S.M.SUBRAMANIAM, J.]

These writ petitions have been instituted by the Karur Agricultural producers Co-operative Marketing Society Ltd., a Co-operative Society registered under the provisions of the Tamil Nadu Co-operative Societies Act, 1983.

2. Challenge in these writ petitions has been made to the proviso to Sub-Section (7) to Section 7 of the Payment of Gratuity Act, 1972 (for brevity, “the Act”).

3. The reason for challenging the proviso to Sub-Section (7) to Section 7 of the Act is that the appeal filed by the petitioner as against the order passed under Sub-Section (4) to Section 7 of the Act had been rejected on the ground of delay. In order to save the limitation, the petitioner has chosen to challenge the very appeal provision contemplated under the Act.



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4. The proviso to Sub-Section (7) to Section 7 of the Act enumerates 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.

5. Totally, 120 days are prescribed for the purpose of preferring appeal and beyond the time limit prescribed, the Competent Appellate Authority has no power to condone the delay and entertain the appeal.

6. Sub-Section (7) to Section 7 of the Act denotes that any person aggrieved by an order under Sub-Aection (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.

7. The appeal provision has been contemplated to redress the grievance of the aggrieved persons against the order passed under Sub-Section (4) to Section 7 of the Act. This being the labour welfare legislation



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and the legislative intention was to provide speedy remedy to the workmen, we are of the considered opinion that the grounds raised challenging the provision clause to Sub-Section (7) to Section 7 of the Act would be insufficient to consider the relief as such sought for in the present writ petitions.

8. The very legislative intention in prescribing the time limit is to ensure that appeal is filed by the aggrieved person in time and speedy remedy is provided to him and to avoid enormous and unnecessary delay in filing the appeal by the aggrieved person in the labour matters. This being the legislative intention, any interference by the Court would defeat the very purpose of the Act.

9. The right of appeal is a creation of the statute and no one has got vested right to challenge the provision prescribing time limit for the purpose of preferring appeal, which has got a definite sanctity. More so, the plain reading of the proviso to Sub-Section (7) to Section 7 of the Act would reveal that there is no arbitrariness or unconstitutionality. Hence, we are not inclined to entertain the present writ petitions.



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10. Accordingly, the writ petitions are dismissed. No costs.
Consequently, connected miscellaneous petitions are closed.

[S.M.S., J.]

[V.L.N., J.]

06.10.2023

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

- 1.The Additional Commissioner of Labour,
(The Appellate Authority),
Trichy.
- 2.The Assistant Commissioner of Labour,
(Controlling Authority under
the Payment of Gratuity Act, 1972),
Dindigul.
- 3.The Secretary,
Ministry of Labour &
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