IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.Nos.14566, 14571, 14572 & 14573 of 2024

The Amaravathi Co-operative
Sugar Mills Limited,
Krishnapuram,
Madathukulam Taluk,
Tirupur District - 642 111. ... Petitioner
[in all W.Ps]

versus

1.Appellate Authority,
Commissioner (Labour),
Office of Joint Commissioner of Labour,
Coimbatore - 18.

2.Controlling Authority,
Assistant Commissioner (Labour),
Office of Joint Commissioner of Labour,
Coimbatore - 18. ... Respondents
[in all W.Ps]

3.M.Gowri ... Respondent
[in W.P.No.14566/2024]

3.S.Chandra ... Respondent
[in W.P.No.14571/2024]

3.A.Karthikeyan ... Respondent
[in W.P.No.14572/2024]

3.P.Natarajan ... Respondent
[in W.P.No.14573/2024]

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the first respondent to admit the appeal filed on 28.08.2023 under Section 7(7) of the Payment of Gratuity Act, 1972, by discharging the payment of admitted gratuity amount under Section 7(4)(a) of the Payment of Gratuity Act, 1972.

For Petitioner [in all W.Ps]	:	Mr.M.Alagu Goutham
For Respondent Nos.1 & 2 [in all W.Ps]	:	M/s.M.Jayanthy Additional Government Pleader

COMMON ORDER

These Writ Petitions have been filed directing the first respondent to admit the appeal filed on 28.08.2023 under Section 7(7) of the Payment of Gratuity Act, 1972 [P.G.Act], by discharging the payment of admitted gratuity amount under Section 7(4)(a) of the Payment of Gratuity Act, 1972.

2. Heard Mr.M.Alagu Goutham, learned counsel for the petitioner and M/s.M.Jayanthy, learned Additional Government Pleader for the respondents 1 and 2 and perused the materials available on record.

3. In a dispute filed before the Controlling Authority under the P.G. Act in G.A.Nos.280 of 2015, 08 of 2020, 07 of 2020 and 545 of 2021, respectively directions were given. The limited point on which the petitioner has filed these writ petitions is that he is entitled to maintain an appeal before the Appellate Authority against the order passed by the Controlling Authority by way of making a deposit under Section 7(4)(a) of the P.G. Act. But the Appellate Authority has refused to receive the appeal, insisting the appellant to deposit the entire amount determined by the Controlling Authority. For the sake of clarity, the impugned written order is extracted as below:-

> "பணிக்கொடை வழங்கல் சட்டம் பிரிவு 7(7) (Proviso) யில் *Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either produces a certificate of the controlling authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under sub-section (4), or deposits with the appellate authority such amount.* என்று தெரிவிக்கப்பட்டுள்ளவாறு, கீழமை மன்றம் பணிக்கொடை வழங்கு எண். ஜி.ஏ.280/2015, 281/2015, 282/2015, 283/2015, 444/2015, 07/2020, 08/2020, 09/2020, 10/2020, 545/2021, 564/2021, 565/2021, 94/2022, நாள் 08.03.2023 மற்றும் 31.05.2023 அன்று வழங்கியுள்ள உத்தரவு தொகையை கீழமை மன்றத்தில் வைப்பீடு செய்யப்பட்டதற்கான சான்று மேல்முறையீட்டு மனுவுடன்

இணைத்து பெறப்படவில்லை. எனவே, பெறப்பட்ட மேல்முறையீடு இத்துடன் இணைத்து அனுப்பப்படுகிறது.”

4. Mr.M.Alagu Goutham, learned counsel for the petitioner submitted that what is required to be complied under Section 7 of the P.G. Act for getting the appeal admitted is by making a deposit of the amount admitted by the management. It is claimed by the learned counsel for the petitioner that the language of second proviso to Section 7 of the P.G. Act would only mandate the payment of the amount equal to the amount admitted by the management in a dispute brought before the Controlling Authority under the P.G. Act. In the order of the Controlling Authority itself a finding has been recorded that the management has paid the admitted gratuity amount to the employee and hence, it is unfair on the part of the appellate authority to insist for a certificate and that it is just superfluous.

5. Before proceeding to discuss the issue, it is essential to extract Section 7(4)(a) of the P.G. Act as below:-

> *“7**(4)(a).** If there is any dispute as to the amount of gratuity payable to an employee under this Act or as to the admissibility of any claim of, or in relation to, an employee for payment of gratuity, or as to the person entitled to receive*

the gratuity, the employer shall deposit with the controlling authority such amount as he admits to be payable by him as gratuity."

6. The provision would only state about the precondition of paying the amount admitted in a claim for gratuity just to maintain the dispute before the Controlling Authority. In fact, the dispute has been raised by the Controlling Authority and not by the management. Whatever may be the case there is a dispute with regard to the claim under the P.G. Act. If the dispute is with regard to the quantum to be payable under the Act, the mandatory deposit is the 'admitted amount'.

7. While making an appeal against the order after the disputed issue has been determined by holding that the amount determined is payable as gratuity, then the party aggrieved may file an appeal under Section 7(7) of the P.G. Act. Section 7(7) of the P.G. Act will impose a precondition of payment of the required amount, for which it requires a certificate issued by the controlling authority to be produced before the appellate authority. In the event of the failure to produce the certificate, the appellant is required to deposit the amount atleast before the appellate authority himself. The language of Section 7(7) goes as under:-

> *"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.*
>
> *[Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either produces a certificate of the controlling authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under sub-section (4), or deposits with the appellate authority such amount.]"*

8. As Section 7 makes a reference to subsection (4), the learned counsel for the petitioner takes advantage and claimed that the second proviso to Section 7 which also requires a reference to subsection 4 and that would only refer to the payment, which should be paid in accordance with Section 7(4)(a) of the P.G. Act. Since 7(4)(a) mandates a payment of the admitted amount, the petitioner claims that it is sufficient even for maintaining an appeal under Section 7 and hence the written order of the appellate authority is not correct.

9. Section 7(4) of the P.G. Act would contemplate the procedure through which the Controlling Authority can entertain a dispute on the entitlement of the gratuity or about its quantum. Only after paying the admitted amount, the employer who has the obligation to pay the gratuity can maintain the dispute as to the quantum.

10. Therefore, the Controlling Authority has got a duty to make a due enquiry after giving reasonable opportunity to the parties to make their submissions and come out to a conclusion as to the amount payable by the employer. In such case, the amount already deposited by the employer while maintaining a dispute before the Controlling Authority will get exhausted. While preferring an appeal under Section 7 of the P.G. Act, no amount will lie in the deposit of either the Controlling Authority or the appellate authority.

11. So the language adopted in Section 7 of the P.G. Act by making an exclusive reference to subsection (4) should only be understood as the amount of gratuity required to be paid. That is the amount which has been determined by the Controlling Authority. In other words, the amount which was determined by the Controlling Authority is the amount required to be payable to the employee. In order to maintain an appeal, the said amount has to be deposited either before the Controlling Authority or before the Appellate Authority. In the event of making the deposit before the Controlling Authority, the Controlling Authority has got the obligation to issue a certificate to that effect and that has to be produced before the appellate authority while filing the appeal.

12. So there cannot be any confusion in the manner in which the second proviso to Section 7 of the P.G. Act has to be understood in the context of referring Section 7(4) and that would only mean the deposit of the amount determined by the Controlling Authority. Since the impugned order has rightly passed requiring the appellant to comply the conditions in letter and spirit of Section 7(4) of the P.G. Act, I find no direction needs to be issued as sought by the petitioner. However, the petitioner is at liberty to make an application before the Controlling Authority.

13. With these observations, these Writ Petitions are **dismissed**. No costs.

09.09.2024

Speaking order / Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No

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To

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Commissioner (Labour),
Office of Joint Commissioner of Labour,
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2.The Controlling Authority,
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R.N.MANJULA, J.

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