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W.P.No.30586 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2024

CORAM :

THE HONOURABLE DR. JUSTICE D. NAGARJUN

W.P. No. 30586 of 2014

The Managing Director,
Coimbatore District,
Milk Producer's Union Ltd.,
Pachapalayam, Perur via,
Coimbatore – 641 010.

..Petitioner

vs.

1. The Joint Commissioner of Labour,
The Appellate Authority,
for Payment of Gratuity Act,1972,
Coimbatore.

2. Saraswathy

..Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records pertaining to the order of the first respondent in I.A.No.43 of 2014 in AGA No.6 of 2014 dated 28.07.2014 pending on the file of the Appellate authority for payment of Gratuity Act, 1972, Coimbatore and quash the same and consequently directing the first respondent to accept the documents filed in the I.A.43 of 2014.

For petitioner	:	Mr. P. Narayanamoorthy
For R1	:	Mr.P.Gurunathan, Additional Government Pleader
For R2	:	Mr.C.Murugesan



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ORDER

This writ petition has been filed to call for the order dated 28.07.2014 passed in I.A.No.43 of 2014 in AGA No.6 of 2014 pending on the file of the Appellate authority for payment of Gratuity Act, 1972, Coimbatore

2.1. The facts in brief as per the affidavit enclosed in this petition are as follows:

2.2. The petitioner is a cooperative Society registered under Tamil Nadu Co-operative Society Act, 1983 (in short referred as 'Act').

2.3. One Babuji @ Gopinath was engaged as a seasonal and casual worker on 02.05.1989. He was not sponsored by employment exchange. He was not appointed in the cadre strength of the petitioner Society. The services of the Babuji @ Gopinath were utilized depending upon availability of work. His services were not continuous, he was not required to attend daily as a daily wager. The petitioner was not engaged as per Rule 149 (2) and (3) of the Tamil Nadu Co operative Rules, 21988. Whenever he has not worked he was not paid wages under the policy of 'No work No



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pay'. There was no employee and employer relationship between the petitioner management and the workman and hence, he is not eligible for gratuity.

2.4. The petitioner has filed I.A. No. 43 of 2014 before the first respondent the Joint Commissioner of Labour and appellate authority under the Payment of Gratuity Act, 1972 for marking some important and vital documents. However, the first respondent appellate authority has dismissed the said I.A.No.43 of 2014 in AGA 6 of 2014 as per the orders dated 28.07.2014 and aggrieved by the same, the present writ petition is filed.

2.5. It is submitted by the learned counsel for the petitioner that not filing of the documents by the petitioner Society earlier before the controlling authority is not intentional one and since the petitioner's Society is a big organization, it took some time to secure documents and hence, administrative delay in not filing of the documents cannot be a ground for dismissal of the said I.A. It is further submitted that the Controlling Authority has passed orders without any valid reason.



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3. Counter affidavit has not been filed by the respondents. Heard

both sides and perused the materials available on record.

4. The contention of the respondent workman is that the proposed documents were found after searching in the record room of the petitioner Society. The petitioner has not filed documents when the matter was pending before the controlling authority. Normally, the documents are expected to be filed when the matter is pending before the Controlling Authority. The appeal in AGA 6 of 2014 will be dealt with and will be decided based on the materials placed before the Controlling Authority.

5. Filing of documents when an appeal is pending is only an exceptional case and not as a general rule. In order to consider the documents filed before the appellate authority the petitioner is expected to mention what are the documents the petitioner is intending to file along with the said application but the petitioner has not mentioned the details of the documents which he is intending to file before the first respondent the appellate authority. Unless the nature of the documents and number of documents proposed to be filed by the petitioner is revealed, it is very difficult for the Court to assess as to whether the documents proposed to the



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filed are required for adjudication of the issue pending between the parties.

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6. Once the decision has been rendered basing on certain documents, the petitioner who has lost the case before the Controlling Authority cannot supplement with some more documents in the appeal to set aside the decision of the Controlling Authority. Further, on perusal of the impugned orders, this Court is of the opinion that there is no perversity in the impugned orders.

7. In view of the above discussion made out, the first respondent the appellate authority has rightly dismissed the I.A.No.43 of 2014 in AGA No.6 of 2014 dated 28.07.2014 and this Court entertains the same.

8. Accordingly, this writ petition is dismissed. No costs

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vca

Index : Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation : Yes / No



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Dr.D.NAGARJUN.J

vca

To

The Joint Commissioner of Labour,
The Appellate Authority,
for Payment of Gratuity Act,1972,
Coimbatore.

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