



WEB COPY



WP.No.18281/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.18281 of 2023
& WMP.No.17486 of 2023

M/s.Freight Express International Private Limited,
No.4, Flat No.F-1, 35th Street,
Thillai Ganga Nagar, Nanganallur,
Chennai – 600 061.

Rep. by its Chairman Mr.K.S.P. Nair

...Petitioner

VS.

1.Additional Commissioner of Labor,
Appellate Authority under the Payment of Gratuity Act, 1972,
Labor Welfare Board Building, 6th Floor,
D.M.S. Campus, Teynampet,
Chennai – 600 006.

2.Deputy Commissioner of Labor,
Office of the Joint Commissioner of Labor – II,
Chennai – 600 006.

3.Mr.K.B.Radhakrishnan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus, to call for the records and
quash the order dated 10/05/2023 bearing Ref.No.E/488/2022 passed by the



WP.No.18281/2023

1st Respondent Appellate Authority and further issue appropriate directions to the 1st Respondent Appellate Authority under the Payment of Gratuity Act, 1972 – Additional Commissioner of Labor, D.M.S Campus, Teynampet, Chennai – 600 006 to number the appeal filed by the petitioner and take on file and admit the said appeal filed by the petitioner and decide the same on merits.

For Petitioner	: Mr.C.Manohar Gupta
For R1 and R2	: Mr.P.Sanjay Gandhi, Government Advocate
For R3	: Mr.K.S.Ramaswamy

ORDER

The Writ Petition is filed seeking for a Writ of Certiorarified Mandamus, to call for the records and to quash the order dated 10/05/2023 bearing Ref.No.E/488/2022 passed by the 1st Respondent Appellate Authority and further issue appropriate direction to the 1st Respondent Appellate Authority under the Payment of Gratuity Act, 1972 – Additional Commissioner of Labor, D.M.S Campus, Teynampet, Chennai – 600 006 to number the appeal filed by the petitioner.



WP.No.18281/2023

WEB COPY

2.The second respondent passed an order dated 13.09.2022 in P.G.No.71 of 2022 directing the petitioner to pay a sum of Rs.18,00,000/- as gratuity to the third respondent within 30 days from the date of receipt of a copy of the order together with interest at 10%.

3.The petitioner filed an appeal against the order dated 13.09.2022 passed in PG.No.71 of 2022 along with a petition and affidavit to condone the delay in filing the appeal. But, the petitioner did not produce the certificate of deposit required to be produced under Sub Section 4(A)(4) of the Act. The appellate Authority therefore, passed the impugned order rejecting the appeal. Aggrieved by the rejection of the petitioner's appeal, the petitioner filed the above writ petition.

4.The learned counsel for the petitioner submitted that the appeal was filed on 15.02.2023 within 120 days from the date of receipt of the copy of the order on 19.10.2022. The writ petitioner was not able to produce the certificate of deposit because the amount was kept in LIC Policy. The petitioner had to recover the gratuity amount from LIC and thereafter, had to deposit it before the Authority. Hence, the delay.



WP.No.18281/2023

WEB COPY

5.The learned counsel for the petitioner submits that the appellate authority without considering the aforesaid facts rejected the appeal. The learned counsel relied on the Judgment of this Court in ***Management of Christian Medical College and Hospital Vs. Deputy Commissioner of Labour and Another*** [W.P.No.15022 of 1999 and WMP.No.21703 of 1999] in support of his submission that the delay in producing the certificate could be condoned.

6.The learned counsel for the respondent contended that the production of certificate of deposit was mandatory and therefore, the appellate Authority was justified in rejecting the appeal for non-production of certificate of deposit.

7.The reason for the delay was that the amount was kept in deposit in LIC policy for the gratuity scheme and because there was a delay in recovering the amount from LIC, the certificate of deposit was not filed in time. It is seen that the delay occurred only because of the delay in getting the amount from the LIC. I find that justifiable reasons are made out for the



WP.No.18281/2023

WEB COPY

delay and further the delay is within the condonable limit of 120 days. In the Judgment relied on by the learned counsel for the petitioner, though a plea was taken by the petitioner therein that he need not make the conditional deposit, this Court permitted the petitioner therein to make the deposit by extending the time for deposit while rejecting the plea.

8.For the reasons stated, the writ petition is allowed with a direction to the first respondent to decide the application for condonation of delay in filing the appeal, on merits and in accordance with law, and within a period of four (4) weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

05.02.2024

Tsg

Index : Yes/No

Internet:Yes/No

Speaking Order/Non-speaking Order



WEB COPY



WP.No.18281/2023

N.MALA, J.

Tsg

To

1.Additional Commissioner of Labor,
Appellate Authority under the Payment of Gratuity Act, 1972,
Labor Welfare Board Building, 6th Floor,
D.M.S. Campus, Teynampet,
Chennai – 600 006.

2.Deputy Commissioner of Labor,
Office of the Joint Commissioner of Labor – II,
Chennai – 600 006.

W.P.No.18281 of 2023

05.02.2024