



WP(MD)No.20944 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.20944 of 2014

and

MP(MD)No.1 of 2014

Kalasamirakki Kudiyiruppu Primary Agricultural
Co-operative Credit Society,
Rep. by its President,
Beach Road, Kottar,
Nagercoil,
Kanyakumari District.

.. Petitioner

v.

- 1.The Joint Commissioner of Labour,
Authority under the Payment of Gratuity Act,
Tamil Nadu Housing Board Building,
Eliss Nagar, Madurai.
- 2.The Assistant Commissioner of Labour,
Controlling Authority under the Payment of Gratuity Act,
Thiruvananthapuram Road, Palayamkottai,
Tirunelveli.
- 3.G.Alexuse

.. Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the first respondent in Aa.Thi.Mu./Ee./3661/14 dated 22.08.2014, quash the same and consequently, directing the first respondent to take the appeal dated 06.08.2014 on file, on resubmission by the petitioner and the decide the same on merits.

For Petitioner : Mr.M.Azeem

For Respondents : Mr.A.Baskaran,
Additional Government Pleader
for R.1, R.2

Mr.S.Sivakumar for R.3

ORDER

The third respondent has filed a petition before the second respondent seeking gratuity and the second respondent has ordered the same on 20.05.2013. As against the said order, the petitioner Society preferred an appeal before the first respondent. The appellate authority has rejected the appeal filed by the petitioner Society on the ground of



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limitation and aggrieved over the same, the petitioner has filed this writ petition.

2.Learned Counsel for the petitioner submitted that the order dated 20.05.2013 was not served on the petitioner and that they got this order only in the year 2014 and immediately, they preferred the appeal. He further submitted that there is no proof that the order dated 20.05.2013 was duly served on the petitioner.

3.Learned Additional Government Pleader for the respondents 1 & 2 submitted that the order was duly served on the petitioner, however, the appeal was filed beyond the statutory period. He further submitted that the petitioner has participated in the proceedings before the second respondent and was also aware of the order. Therefore, they cannot take a plea that they have not been served with the copy of the order.

4.This Court considered the rival submissions made on either side and perused the materials placed on record.



5.No doubt, the order determining gratuity u/s.7 of the Payment of Gratuity Act can be appealed as per Section 7(7) of the Act, however, within a period of 60 days. Apart from that, the appellate authority is vested with a power to condone the delay for a further period of 60 days. In this case, admittedly, the appeal as against the order dated 20.05.2013 was filed only on 06.08.2014, with a delay of 382 days. Therefore, the appellate authority has dismissed the appeal that they are not having the power to condone the delay beyond the period of limitation.

6.The petitioner has taken a plea that the order dated 20.05.2013 has not been served on them and that they came to know about this order only after the recovery proceedings initiated by the Tahsildar.

7.However, in the affidavit filed in support of the appeal petition before the appellate authority, the petitioner has claimed that the order passed by the second respondent dated 20.05.2013 would have been received by their Office on 23.05.2013, but, they do not know the exact date of receipt of the order and that the file has been misplaced.



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8.While so, a different stand has been taken now in this writ petition.

The petitioner has not offered any explanation in this regard and this Court is not inclined to order for a probe as to whether the order dated 20.05.2013 has been duly served on the petitioner or not, in the year 2024.

9.This Court cannot find fault with the impugned order passed by the first respondent / appellate authority, inasmuch as the first respondent is not having the power to condone the delay beyond the period of 120 days. Therefore, this Court is not inclined to entertain this writ petition. Moreover, when the writ petition came up for hearing, it is represented that the gratuity amount, as directed by the second respondent, was already deposited by the petitioner Society on 23.12.2014.

10.Since the gratuity amount was deposited, this writ petition is closed, with liberty to the third respondent to receive the same, as per the orders of the second respondent, by filing appropriate petitions, if required.



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There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No **23.10.2024**
NCC : Yes / No
Internet : Yes
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B.PUGALENDHI, J.

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