



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 09.07.2025

CORAM

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P.No.5347 of 2022 and W.M.P.No.5435 of 2022
and
W.P.No.5312 of 2022

The Management,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
12, Ramakrishna Road,
Salem-636 007.

...Petitioner in W.P.No.5347 of 2022

P.Ganapathy

...Petitioner in W.P.No.5312 of 2022

...Versus...

1.P.Ganapathy
2.The Appellate Authority / Additional Commissioner of Labour
Coimbatore
....Respondents in W.P.No.5347 of 2022

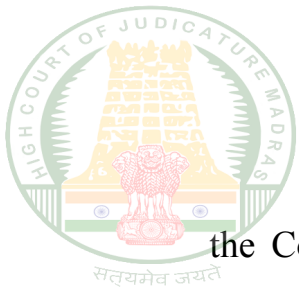
1.The District Collector,
Dharmapuri District,
Dharmapuri.

2. The Tahsildar,
Dharmapuri Taluk,
Dharmapuri.

3. The Managing Director,
Tamil Nadu State Transport
Corporation (Salem) Ltd,
Dharmapuri Zone,
Barathipuram,
Dharmapuri - 636 705.

...Respondents in W.P.No.5312 of 2022

Prayer in W.P.No.5347 of 2022:-Writ Petition filed under Article 226 of



the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in A.G.A.Sr.No.156 of 2021, dated 22.01.2021 and to quash the same and consequently direct the 2nd respondent to take the Appeal.

Prayer in W.P.No.5312 of 2022:-Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the 2nd respondent/Tahsildar to implement the order of 1st respondent vide proceedings bearing Na.Ka.No.15644/2021/F1 on dated 06.09.2021 and to recover the amount as per the certificate, Na.Ka.No.AA4/2244/2021 dated 04.08.2021 issued by the Deputy Commissioner of Labour, Salem as on date and to remit the same as per the certificate apart from any other damages for the sufferings caused to the petitioner by negligent act of the 3rd respondent.

W.P.No.5347 of 2022:

For Petitioner	::	Mr.K.Raja, Standing Counsel for TNSTC
For R1	::	Mr.R.Dillikumar
For R2	::	Mr.E.P.Senniyangiri, Government Advocate

W.P.No.5312 of 2022:

For Petitioner	::	Mr.R.Dillikumar
For R1&R2	::	Mr.E.P.Senniyangiri, Government Advocate
For R3	::	Mr.K.Raja, Standing Counsel

COMMON ORDER



W.P.No.5347 of 2022 has been filed by the Tamil Nadu State

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Transport Corporation (Salem)-Management against the order passed by the second respondent, wherein the first respondent filed an application before the Controlling Authority for payment of gratuity amount, and the same was allowed. Aggrieved by this, the petitioner preferred an appeal before the second respondent authority with a delay of 360 days, and the same was dismissed by the second respondent. Challenging the said order, this writ petition has been filed.

2. W.P.No.5312 of 2022 has been filed by the petitioner-employee seeking implementation of the order passed by the appellate authority under the payment of Gratuity Act in Na.Ka.No.15644/2021/F1, dated 06.09.2021 and for recovery of the amount as per the certificate, Na.Ka.No.AA4/2244/2021, dated 04.08.2021, issued by the Deputy Commissioner of Labour, Salem.

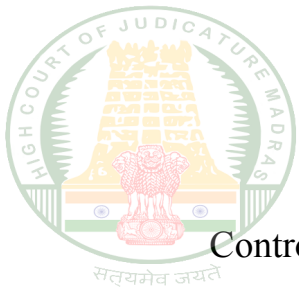
3. The writ petitioner in W.P.No.5347 of 2022 and the third respondent in W.P.No.5312 of 2022 will be referred as **Management**, and the writ petitioner in W.P.No.5312 of 2022 and the first respondent in W.P.No.5347 of 2022 will be referred to as the **Workman**.



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4. The learned counsel for the petitioner-Management submits that the workman was employed as a Driving Instructor and retired from service on 28.02.2018. Thereafter, his retirement benefits were settled, including the gratuity amount. However, the workman subsequently filed an application before the Controlling Authority under the Payment of Gratuity Act, alleging that he was entitled to a sum of Rs.9,55,407/-. The authority, however, determined only a sum of Rs.8,80,728/-, and the remaining amount of Rs.74,679/- was paid by the Management.

5. He further submits that the said application was hotly contested by the Management. Nevertheless, the Controlling Authority erroneously allowed the petition and directed the Management to pay a sum of Rs.74,679/- by order dated 03.06.2019. Thereafter, the Management preferred an appeal before the Appellate Authority with a delay of 368 days. The said appeal was dismissed on the ground that it was barred by limitation under Section 7(7) of the Payment of Gratuity Act, 1972. The Appellate Tribunal failed to consider that the Workman was entitled only to Rs.16,766/-, and that a period of 7 months and 12 days was treated as unqualified service, which had already been taken into account by the



Controlling Authority. Therefore, the appeal ought to have been decided on merits. Instead, the Appellate Tribunal simply dismissed the appeal on the ground of limitation. Hence, the order passed by the second respondent, the Appellate Authority, is liable to be quashed.

6. Moreover, the Workman has also filed a writ petition seeking execution of the order. Even though the writ petition filed by the Management challenging the order passed by the Appellate Authority in dismissing the delay condonation petition is still pending adjudication, the workman filed a writ petition to execute the order. As such, the Workman is not entitled to seek execution of the order at this stage. Therefore, the writ petition filed by the Management is liable to be allowed, and the writ petition filed by the Workman is liable to be dismissed.

7. The learned counsel for the petitioner-workman submits that the Workman is entitled to a gratuity amount of Rs.9,55,407/-, whereas the Management has paid only a sum of Rs.8,80,720/-, and the balance amount of Rs.74,679/- remains unpaid. The Management has preferred an appeal with an inordinate delay of 368 days. As per Section 7(7) of the Payment of Gratuity Act, the appeal must be filed within 60 days, and the Appellate



Authority has the discretion to extend it by a further period of 60 days.

Beyond this, there is no provision to condone any further delay. Hence, the Appellate Authority rightly dismissed the appeal as time barred. There is no merit in the writ petition filed by the Management, and it is liable to be dismissed.

8. The petitioner-Workman has also filed a writ petition seeking implementation of the order passed by the Controlling Authority for payment of Rs.9,55,407/-. Although the writ petition filed by the Management challenging the appellate order is pending, the Workman is still entitled to seek execution of the original order. Therefore, the writ petition filed by the Workman is liable to be allowed.

9. Heard both sides and perused the materials available on record.

10. In this case, the main contention raised by the Management is that there was a delay in preferring the appeal before the Appellate Authority under the payment of Gratuity Act, and that due to administrative reasons, a delay of 360 days occurred. Although, as per the act, the limitation period is 120 days, this Court can extend the time by invoking its jurisdiction under



Article 226 of the Constitution of India.

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11. To support his contention, he relied the judgment of this Court in W.P.No.20974 of 2014 [**The Management, Tamil Nadu State Transport Corporation Limited, (Salem Division), Dharmapuri Regional, Bharathipuram, Dharmapuri 5, represented by its General Manager, Vs.The Appellate Authority, (Under Payment of Gratuity Act, 1972) (O/o.Joint Commissioner of Labour), Coimbatore-18 and others**], wherein this Court condoned a delay of 120 days and directed the Appellate Authority to take the appeal on file and pass orders on merits. However, once the statute prescribes a specific provision for condonation of delay, this Court, while exercising jurisdiction under Article 226 of the Constitution of India, cannot introduce a new period of limitation or extend it beyond what is provided under the statute. The Court is bound to follow the legislative mandate, and unless the provision itself is challenged, this Court cannot pass orders contrary to the statute.

12. Therefore, the judgment relied upon by the Management is not applicable to the present facts of this case. Even on merits, the Controlling



Authority has passed a reasoned order based on the documents placed on record, and no documents have been produced by the Management before the Controlling Authority to substantiate its contention that 7 months and 12 days were considered as unqualified service.

13. Hence, this Court cannot direct the Appellate Authority to entertain the appeal beyond the limitation period prescribed under the statute, and the writ petition filed by the Management is liable to be dismissed.

14. At this juncture, the learned counsel appearing for the petitioner requested that the rate of interest be reduced from 10% to 8.5% and relied on the judgment of this Court in W.P.No.33897 of 2023 and batch cases, wherein this Court reduced the interest from 10% to 8.5% in respect of delays in payment of gratuity amounts.

15. This Court has carefully perused the said judgment. In that case, the Court relied upon the rate of interest notified by the Central Government for repayment of long term deposits and applied the rate of 8.5% as per the notification issued for the year 1987. Therefore, this Court is in agreement



with the decision taken in the above mentioned writ petition and, therefore, directs that the interest rate be reduced from 10% to 8.5% on the gratuity amount as directed by the Controlling Authority. To that effect, the order passed by the Contesting Authority in respect of rate of interest alone is modified.

16. As far as the writ petition filed by the workman is concerned, in view of the order passed by this Court in W.P.No.5347 of 2022 filed by the Management, the workman is entitled to seek implementation of the order. Therefore, the writ petition filed by the Workman is liable to be allowed, and the Management is directed to pay the gratuity amount as indicated above within a period of two months from the date of receipt of a copy of this order. Failing such payment, the petitioner-Workman shall be entitled to take steps to implement the order as prayed for in the writ petition.

17. In the result, *W.P.No.5347 of 2022 is filed by the Management*



is partly allowed, as indicated above and W.P.No.5312 of 2022 is filed by

the workman is allowed. There shall be no order as to costs. Consequently,

the connected W.M.P is closed.

09.07.2025

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

To:

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P.DHANABAL,J.,

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