

W.P.No.2905 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

RESERVED ON : 13.03.2025
PRONOUNCED ON : 22.04.2025

PRESENT:

THE HON'BLE DR. JUSTICE A.D. MARIA CLETE

W.P.No. 2905 of 2020

P.Rajakannu,
S/o. Late Pandu Rangan,
13/4, Vanakara Street,
Thiruvannamalai – 606601

...Petitioner

Vs.

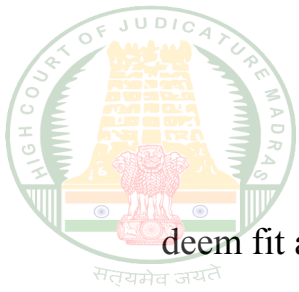
1. The Management
M.R.K.Coop. Sugar Mills,
Sethiathope,
Cuddalore District.
- 2.The Controlling Authority under the
Payment of Gratuity Act 1972,
Joint Commissioner of Labour,
DMS Compound, Chennai-600006.

(R2 impleaded as per order dt.19.2.2020 made
In WMP 4534/2020 in WP No.2905/2020)

.... Respondents

Prayer in W.P

To issue a Writ of Certiorari or any other appropriate writ, or order calling for the production of the records pertaining to the orders P.G.I.A.No.73 of 2018 dated 8.1.2019 and 7.2.2019 passed by the Controlling Authority under the Payment of Gratuity Act, Joint Commissioner of Labour – 2, Chennai and quash the same and pass such further order or orders as this Hon'ble Court may



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deem fit and proper in the circumstances of the case.

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Appearance of Parties:

For Petitioner: Mr. Abdul Vahab, Advocate

For Respondent 1: No appearance

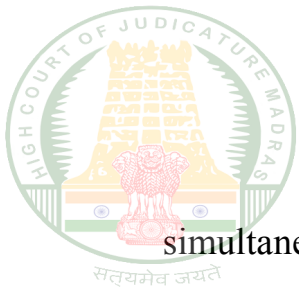
For Respondent 2 : Mr.R.Kumaravel, Additional Government Pleader.

JUDGMENT

Heard.

2. The writ petition has been filed by the workman challenging the orders passed by the 2nd Respondent—Controlling Authority—in P.G.I.A. No. 73 of 2018, dated 08.01.2019 and 07.02.2019, and seeks to have the same quashed, with a consequential direction to pass appropriate orders afresh. When the writ petition was listed for admission on 19.02.2020, notice was ordered to the respondents. On the same day, the petitioner also filed W.M.P. No. 4534 of 2020 seeking to implead the 2nd Respondent—Controlling Authority—which was allowed.

3. The petitioner was employed as a Chief Chemist in the 1st Respondent Sugar Mill, drawing a last monthly salary of Rs. 90,000/-. After rendering 37 years of service, he retired on 31.05.2008. Upon retirement, the petitioner was not paid his gratuity dues. Consequently, he filed an application seeking gratuity only in the year 2019. Given the delay of over ten years, he



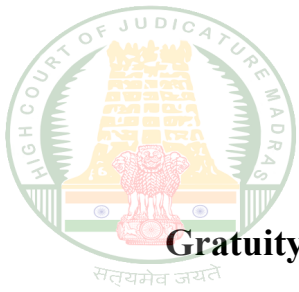
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simultaneously filed an interim application in P.G.I.A. No. 73 of 2018, seeking

condonation of the said delay. Though notice was ordered to the 1st Respondent, there was no appearance on their behalf. Nevertheless, by order dated 08.01.2019, the 2nd Respondent—Controlling Authority—dismissed the interim application on the ground of inordinate and unexplained delay. Thereafter, an erratum dated 07.02.2019 was issued, clarifying that under the Payment of Gratuity Act, 1972, the limitation period for filing such an application is 90 days—not one year as erroneously stated in the original order.

4. In the affidavit filed in support of the writ petition, the petitioner contended that the order passed by the authority was mechanical in nature. He further pointed out that the authority had erroneously stated in the earlier order that the matter arose under the Subsistence Allowance Act. However, despite raising these contentions, the petitioner, even in his affidavit, merely stated that he had issued several reminders to the 1st Respondent and that, under Section 7(3) of the Payment of Gratuity Act, it was the responsibility of the Management to settle the gratuity dues.

5. The learned counsel for the petitioner placed reliance on the decision of this Court in **Backiasamy K.P. v. Appellate Authority under the Payment of**



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Gratuity Act, 1972 and Regional Labour Commissioner (Central),

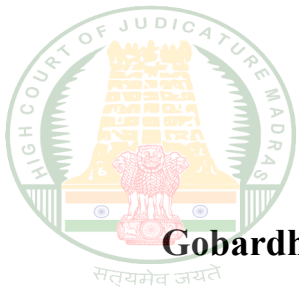
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Chennai, reported in 2008 (1) LLJ 575 (Mad), to contend that the State Government does not possess the rule-making power to prescribe any period of limitation under the Act. Consequently, it was argued that the requirement mandating the filing of an application within 90 days is not legally sustainable.

6. He further relied on the decision of this Court in **Rasipuram Co-operative Urban Bank Limited v. The Authority under the Payment of Gratuity Act / Assistant Commissioner of Labour & Others**, reported in (2016) 01 MAD CK 0036, wherein, at paragraph 8, the Court held as follows:

“8.The Hon'ble Supreme Court in the case of Basawaraj referred to supra, summarises the decisions rendered by the Hon'ble Supreme Court interpreting the expression 'Sufficient Cause', taking note of the decisions in the case of Madanlal V. Shyamlal reported in (2002) 1 SCC 535 and Ram Nath Sao V. Gobardhan Sao reported in (2002) 3 SCC 195. The Hon'ble Supreme Court pointed out that there can be no straitjacket formula in such cases and each case has to be decided on its facts. Therefore, to throw out an application on the ground of limitation, it has to be established that there was gross negligence, inaction or lack of bona fides and unless any one of these factors are established, an application cannot be rejected on the ground of limitation.”

7. Lastly, the learned counsel placed reliance on the judgment of the Hon'ble Supreme Court in **Ram Nath Sao alias Ram Nath Sahu & Others v.**

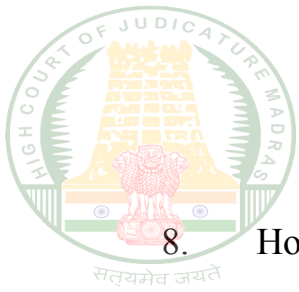


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Gobardhan Sao & Others, reported in (2002) 3 SCC 195, wherein, at

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“Thus it becomes plain that the expression "sufficient cause" within the meaning of [Section 5](#) of the Act or Order 22 Rule 9 of the Code or any other similar provision should receive a liberal construction so as to advance substantial justice when no negligence or inaction or want of bona fide is imputable to a party. In a particular case whether explanation furnished would constitute "sufficient cause" or not will be dependant upon facts of each case. There cannot be a straitjacket formula for accepting or rejecting explanation furnished for the delay caused in taking steps. But one thing is clear that the courts should not proceed with the tendency of finding fault with the cause shown and reject the petition by a slipshod order in over jubilation of disposal drive. Acceptance of explanation furnished should be the rule and refusal an exception more so when no negligence or inaction or want of bona fide can be imputed to the defaulting party. On the other hand, while considering the matter the courts should not lose sight of the fact that by not taking steps within the time prescribed a valuable right has accrued to the other party which should not be lightly defeated by condoning delay in a routine like manner. However, by taking a pedantic and hyper technical view of the matter the explanation furnished should not be rejected when stakes are high and/or arguable points of facts and law are involved in the case, causing enormous loss and irreparable injury to the party against whom the lis terminates either by default or inaction and defeating valuable right of such a party to have the decision on merit. While considering the matter, courts have to strike a balance between resultant effect of the order it is going to pass upon the parties either way.”



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8. However, the authorities cited by the petitioner do not advance his case.

It is true that gratuity is a statutory right, and it vests in the employee upon cessation of service. However, when the the employee does not take any steps to demand or enforce the right for more than a decade, the right—though vested—becomes dormant. The jurisdiction of the Controlling Authority under Section 7(4) of the Act is not automatic; it must be invoked within a reasonable time. The petitioner, having held the position of Chief Chemist and being one of the senior-most officers of the 1st Respondent Mill, has not offered any satisfactory explanation for the inordinate delay of 10 years in approaching the forum. In the absence of any explanation for such a prolonged silence, it is not open to the petitioner to revive a claim long buried, especially when no correspondence or legal notice was issued during this interregnum. Such inaction, bordering on acquiescence, disentitles the petitioner from any equitable indulgence. The mere absence of a prescribed period of limitation, as contended by him, cannot be a valid ground to entertain a gratuity claim filed a decade after retirement. The authority was justified in rejecting the application for condonation of delay. The petitioner cannot seek to invalidate the impugned order on the basis of a clerical error made by the 2nd Respondent in the initial order. It is sufficient to state that the impugned orders suffer from no legal infirmity.



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9. Accordingly, the writ petition is devoid of merits and stands dismissed.

However, there shall be no order as to costs.

22.04.2025

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

To

The Controlling Authority under the
Payment of Gratuity Act 1972,
Joint Commissioner of Labour,
DMS Compound, Chennai-600006 (with records)



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DR. A.D. MARIA CLETE, J

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