



W.P.No.23699 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 22.04.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.23699 of 2021

and

WMP.Nos.24948, 26362 & 26365 of 2021

Mandakolathur Primary Agricultural
Co-operative Credit Society,
Rep. by its Administrator,
Having Office at H.H.No.580, Mandakolathur,
Mandakolathur Post, Polur Taluk,
Thiruvannamalai District.

...Petitioner

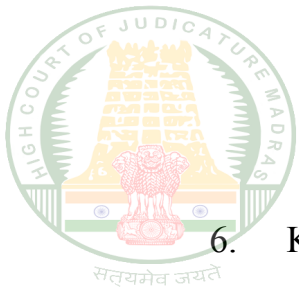
Vs.

1. The Additional Commissioner of Labour,
Labour Welfare Complex,
Directorate of Medical Science,
6th Floor, Teynampet,
Chennai – 600 006.
2. The Deputy Commissioner of Labour,
O/o. Joint Commissioner of Labour,
Old Municipal Complex,
Vellore – 632 001.

S.Kanni (*Deceased*)

3. Revathy
4. Reka
5. Kavitha

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6. Kanagavijayan

...Respondents

WEB COPY (*R3 to R6 substituted as legal heirs of the deceased S.Kanni, vide order dated 22.04.2025 made in WMP.No.27139 of 2024 in W.P.No.23699 of 2021*)

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the entire records in pursuant to the impugned order passed by the 1st respondent in P.G.A.I.A.No.15 of 2019 dated 16.02.2021 and quash the same and direct the 1st respondent to number the main appeal and hear the case on merits.

For Petitioner : Mr.K.Sudalai Kannu

For Respondents : Mr.K.Surendran, AGP, for R1 & R2
: Mr.R.Arumugam, for R3 to 6

ORDER

This Writ petition has been filed seeking quashment of the order of the 1st respondent in P.G.A.I.A.No.15 of 2019 dated 16.02.2021 and to consequently direct the 1st respondent to number the main appeal and hear the case on merits.

2. The case of the petitioner is that the deceased workman viz., Kanni joined the services of the petitioner society as a Clerk in the year 1990.



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Whiles, in the year 2002, the said Kanni was suspended from service for a period from 02.09.2002 to 25.11.2002 for misappropriation of the society's fund. Though the deceased workman was subsequently permitted to resume his service, as he once again indulged in a similar misconduct which caused a loss to the petitioner society to the tune of Rs.4,16,573/-, investigation was ordered and based on the inspection report, subsequently a resolution was taken on 19.02.2018 by the petitioner society to initiate disciplinary proceedings as against the said Kanni. In the mean while, the deceased workman reached the age of superannuation on 28.02.2018. Thereafter, the petitioner society initiated another proceedings as against the said Kanni u/s. 87 of the Tamil Nadu Co-operative Societies Act (in short 'the said Act'). Aggrieved by the same, the deceased workman filed a case before the Principal District Judge, Co-operative Tribunal, Tiruvannamalai in C.T.A.No.4 of 2019 and the same is pending till date. In such circumstances, the deceased workman had also filed an application before the 2nd respondent in P.G.No.8 of 2019 seeking Gratuity amount and the 2nd respondent, without considering any of the above said facts, allowed the said application by order dated 30.05.2019 and directed the petitioner to pay a sum of Rs.7,68,696/- towards gratuity in favour of the deceased workman

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along with 10% interest. Aggrieved by the same, the petitioner preferred an appeal before the 1st respondent with a delay of 33 days, after obtaining the Certificate of Deposit. However, the 1st respondent had erroneously numbered the application to waive of the deposit amount as P.G.A.I.A.No.15 of 2019 instead of numbering the main appeal itself. Subsequently, the said application in P.G.A.I.A.No.15 of 2019 was also rejected by the 1st respondent, vide its order dated 16.02.2021. Challenging the same, the petitioner has come up with this Writ petition.

3. Learned Counsel for the petitioner submitted that, when the irregularities committed by the workman causes loss to the management, it has every rights to withhold the gratuity amount of the said workman. Further, as the surcharge proceedings u/s. 87 of the said Act was pending as against the deceased workman at the relevant point of time, the petitioner society withheld the Gratuity amount payable to the deceased workman, which cannot be said to be erroneous as the same is in compliance of proviso to Section 7(3A) of the Payment of Gratuity Act. Learned counsel further submitted that, even then, pending appeal before the 1st respondent, the petitioner society deposited the entire gratuity amount ordered by the 2nd

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respondent. However, without considering the said fact, the 1st respondent had refused to number the petitioner's appeal and rejected the application in P.G.A.I.A.No.15 of 2019, vide impugned order solely on the ground of delay, which is wholly unsustainable and the said delay is neither wilful nor wanton and the same occurred when the petitioner was taking steps to obtain the Certificate of deposit. Accordingly, he prayed for appropriate orders.

4. Per contra, the learned counsel appearing on behalf of the respondents 3 to 6 submitted that, the deceased workman superannuated on 28.02.2018, however, even after his retirement, the gratuity amount was not paid to him. Thereby, the deceased workman filed an application seeking payment of gratuity in his favour before the 2nd respondent, who in turn, vide order dated 30.05.2019 directed the petitioner to pay a sum of Rs.7,68,696/- in favour of the deceased workman, aggrieved by which, the petitioner preferred an appeal before the 1st respondent with a delay of 153 days, which is not permissible as per proviso to Section 7(7) of the Payment of Gratuity Act and thereby, the 1st respondent had rejected the petitioner's application in P.G.A.I.A.No.15 of 2019, vide impugned order, which cannot

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be said to be erroneous. Accordingly, he prayed for dismissal of this Writ petition.

5. On the above said contentions, heard learned Additional Government Pleader appearing on behalf of the 1st and 2nd respondents and perused the materials available on record.

6. On a perusal of the impugned award it is evident that, as rightly noted by the 1st respondent/Appellate authority, as against the order of the 2nd respondent holding that the deceased workman is entitled for a sum of Rs.7,68,696/- towards gratuity along with 10% interest, the petitioner preferred an appeal before the 1st respondent with a delay of 153 days. It is pertinent to note that, as per Section 7(7) of the Payment of Gratuity Act, the appeal has to be preferred within a period of 60 days and for proper reasons the delay could be condoned up to 120 days. Since the delay in this case was more than 120 days, the 1st respondent had denied permission to register the appeal and assailing the said order, the petitioner has come up with this Writ petition.



7. For better appreciation, the relevant portion of the said section is extracted hereunder:-

“ 7. Determination of the amount of gratuity.—*(1) A person who is eligible for payment of gratuity under this Act or any person authorised, in writing, to act on his behalf shall send a written application to the employer, within such time and in such form, as may be prescribed, for payment of such gratuity.*

.....

(7) Any person aggrieved by an order under sub-section (4), may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf:

Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days.”

8. This Court is not inclined to go into the arguments advanced on both sides for the simple reason that the reasons stated by the petitioner in the affidavit filed in support of this writ petition for the inordinate delay is not satisfactory. There is absolutely no justification for letting the matter to



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accumulate dust and the petitioner cannot be allowed to plead ignorance on any account. Further, the authority is not vested with power either to condone the delay or to extend the period of limitation. Hence, this Court is not inclined to interfere with the impugned order passed by the 1st respondent, since this Court does not find any infirmity in the same.

9. For the reasons aforesaid, this Writ petition stands dismissed and the 2nd respondent is directed to disburse the entire gratuity amount already deposited by the petitioner along with accrued interest in favour of the respondents 3 to 6, the legal heirs of the deceased workman within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous petitions are closed.

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skt

NCC	: Yes / No
Speaking Order	: Yes / No
Index	: Yes / No



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To

1. The Additional Commissioner of Labour,
Labour Welfare Complex,
Directorate of Medical Science,
6th Floor, Teynampet,
Chennai – 600 006.
2. The Deputy Commissioner of Labour,
O/o. Joint Commissioner of Labour,
Old Municipal Complex,
Vellore – 632 001.



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M.DHANDAPANI, J.

skt

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WMP.No.27139 of 2024
in
WP.No.23699 of 2021

M.DHANDAPANI, J.

The present Miscellaneous petition filed seeking to substitute the petitioners 1 to 4 herein as the legal heirs of the deceased 3rd respondent namely S.Kanni in the main Writ petition in W.P.No.23699 of 2021 is ordered as prayed for.

22.04.2025
(½)

skt

Note: Registry is directed to carryout the necessary amendment in the cause title.