



W.P.No.13870 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.13870 of 2024

and

WMP.Nos.15042 & 15243 of 2024

The Management of
S.1565 Palace Nagar Co.Op.House Building Society,
Rep. By Its Administrator,
Palace Tower, Cherry Road, Salem 636 001.

... Petitioner

Vs.

1.The Joint Commissioner Of Labour,
Appellate Authority Under The Payment Of Gratuity Act,
Coimbatore.

2.The Assistant Commissioner Of Labour,
Original Authority Under The Payment Of Gratuity Act,
Salem.

3.R.Sivagami

4.Ramya

5.R.Raj Ganesh

6.R.Bala Kumar

...Respondents



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Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, Calling for the entire records relating to the impugned order in P.G.A. Case No.15/2020 dated 25/03/2024 on the file of the 1st respondent, there by confirming the order made in P.G Case No.47 /2014 dated 11/05/2015 on the file of the 2nd respondent and quash the same and consequently direct the 1st respondent to decide the Appeal Petition dated 29/06/2010 filed by the Petitioner Society against the Order Passed in P.G.Case No.47 /2014 dated 11/05/2015 on the file of the 2nd respondent.

For Petitioner : M/s.K.Premkumar

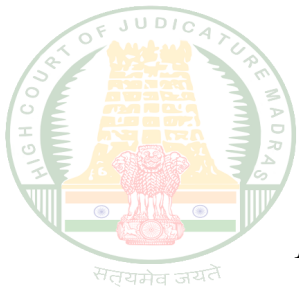
For Respondent : M/s.M.Murali, Govt. Advocate
for R.1 to R.2

: M/s.K.V.Shanmuganathan

ORDER

The above Writ Petition has been filed for the following reliefs:-

"Calling for the entire records relating to the impugned order in P.G.A. Case No.15/2020 dated 25/03/2024 on the file of the 1st respondent, there by confirming the order made in P.G Case No.47 /2014 dated



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11/05/2015 on the file of the 2nd respondent and quash the same and consequently direct the 1st respondent to decide the Appeal Petition dated 29/06/2010 filed by the Petitioner Society against the Order Passed in P.G.Case No.47 /2014 dated 11/05/2015 on the file of the 2nd respondent."

Brief Facts:-

2. The petitioner management would submit that Mr.P.Raja Goundan had joined the services of the petitioner society on 23.03.2001 as a Clerk and retired as a Manager on 30.04.2012. The petitioner management had withheld his terminal benefits including Gratuity due to pendency of criminal case, surcharge proceedings and audit objections.

3. The said P.Raja had filed an application under the Payment of Gratuity Act before the 2nd respondent claiming gratuity of Rs.2,81,128/-. On 11.05.2015, the 2nd respondent had passed an order directing the petitioner management to pay the sum of Rs.2,81,128/- towards gratuity to P.Raja. Challenging the same, the petitioner management had filed WP.No.16817 of 2015 which was dismissed by this Court on 13.11.2019 on the ground that the petitioner society has not exhausted the appeal



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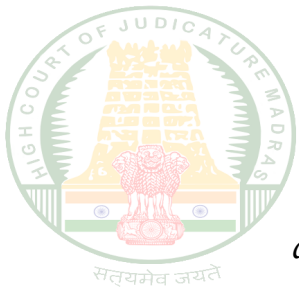
remedy.

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5. The learned counsel for the petitioner would submit that the delay occurred primarily due to the COVID-19 pandemic and the pendency of W.P. No. 16817 of 2015.

6. The learned counsel for the respondents 3 to 6 has questioned the maintainability of the Writ Petition on the ground that the same is barred by limitation. In this regard, he would rely upon the judgement of this Court reported in **2017 LLR 861- The President, Thoothukudi & Tirunelveli District Fishermen Co-op. Federation Ltd. Vs. The Appellate Authority/The Joint Commissioner of Labour**, wherein this Court had observed as follows:-

" The gratuity appeal has got to be filed within a period of 60 days and if there is a delay and sufficient cause is shown in not preferring the appeal within a period of 60 days,



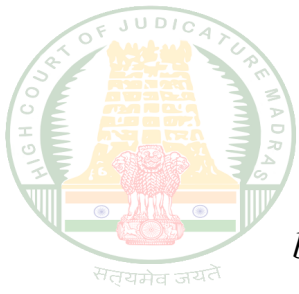
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another period of 60 days is provided under the Act. If any appeal is filed within the maximum period of 120 days, the appellate authority is entitled to entertain the appeal. After the period of 120 days, the appellate authority has become functus officio."

7. The same view has been taken by the Division Bench in WA.No.1389/2022 in which the author of the judgement reported in **2017 LLR 861** was also a part of the bench. The Division Bench had reiterated the position by stating as follows:-

"When there is a statutory provision which contemplates a particular thing to be done in a particular manner, the employer will have to deposit the entire amount of payment of gratuity determined by the Controlling Authority and prefer an appeal within a period of 60 days from the date of receipt of the order of the Controlling Authority. However, the Appellate Authority is empowered to condone the period of 60 days if the appeal is not filed within the stipulated period and the maximum period for the authority to entertain the appeal is 120 days beyond which he



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becomes functus officio."

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8. In the instant case also there is a delay in filing the Gratuity Appeal. The learned counsel for the petitioner would try to explain the delay by stating that a part of the delay was on account of Corona Pandemic and also on account of the pendency of WP.No.16817/2015 which was came to be dismissed on 13.11.2019. However, a perusal of the order passed in WP.No.16817/2015 would reveal that the Court had not granted liberty to the petitioner to file an appeal but on the contrary had dismissed the Writ Petition stating that the petitioner ought to have filed an appeal and rather a Writ Petition. Therefore, this would not come to the rescue of the petitioner.

9. In the light of the above-referred judgements and the legal position, the Writ Petition stands dismissed. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

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Index : Yes/No
Speaking Order: Yes/No
Neutral Citation : Yes/No
(shr)



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