



W.P.No.29558 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.29558 of 2014

and

W.M.P. Nos.1, 2, 3, & 4 of 2014

The Commissioner,
Salem City Municipal Corporation
Salem

... Petitioner

Vs.

- 1.The Joint Commissioner of Labour
(Appellate Authority under Payment of Gratuity Act)
Coimbatore- 18
2. The Assistant Commissioner of Labour/Controlling Authority ,
(Under Payment of Gratuity Act),
Salem – 7.
3. C.Pappa
4. M. Varadhan
5. Pappa
- 6.Palani
- 7.S.Marakkal
8. C.Varuthi
9. Ponnuchamy
10. Raman
11. Palaniyammal
12. Ramayiee
13. Muthusamy
- 14.N.Lakshmi



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- 15.Varadhan
- 16.K.Palani
- 17.M.Pappa
- 18.V.Palaniyammal
- 19.K.Mari
- 20.Govindan
- 21.Paramari
- 22.Lakshmi
- 23.Kuppayee
- 24.Mathamma
- 25.Govindan
- 26.Vellaiyan
- 27.Duraisamy
- 28.Raman
- 29.Kanniyammal
- 30.Palaniyammal
- 31.Chinna Angayee
- 32.Lakshmi
- 33.Paapaa
- 34.Mariyayee
- 35.C.Chinnaperumayie
36. S.Panjali
- 37.Ramayee
- 38.Chinnaramayee
- 39.Kanthayee
- 40.Kaliyammal
- 41.R.Pappa
- 42.Kondan
- 43.Ayithal
- 44.A.Chinnathayee
- 45.Veerammal
- 46.Kuppayee
- 47.Sankaran
- 48.Ramayee
- 49.Veerammal
- 50.Mariyayee
- 51.Muniyammal
- 52.Kandan
- 53.Naachi

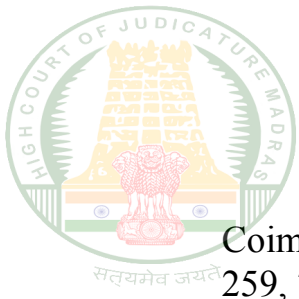


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- 54.Maryappan
- 55.Veerammal
- 56.Maathaiyan
- 57.Lakshmi.A
- 58.Palaniyammal.A
- 59.M.Sithayee
- 60.Ramasamy
- 61.Kandaswamy
- 62.Narayanan
- 63.Karuppan
- 64.Maruthaiyapillai
- 65.K.Mariyayee
- 66.Naachayee
- 67.K.Ramayee
- 68.Palani
- 69.P.Kanthayee
- 70.P.Chinnammal
- 71.Aasirvatham
- 72.A. Ramayee
- 73.Rengan.K
- 74.Kangatharan
- 75.Muniyan
- 76.Lakshmanan
- 77.P.Chinnuswamy
- 78.P.Peryathayee
- 79.P.Elumalai
- 80.Kuppan
- 81.Antonusamy.M
- 82.K.Palani
- 83.A.Mohan
- 84.Lakshmi
- 85.Perumal
- 86.K.Sadayan
- 87.Ramasamy
- 88.Ramayee

3 to 88 Respondents are
C/o G.Krishnan
General Secretary



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Coimbatore District Jeeva Municipal Labour Association
259, 7th Street, Extension,
Gandhipuram,
Coimbatore- 641 012.

89. The Tahsildar
Salem Taluk,
Salem.

...Respondents

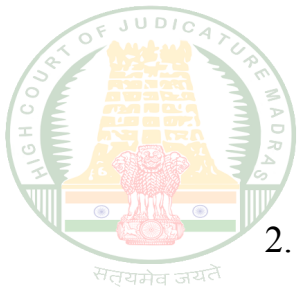
Prayer : Writ Petition filed under Article 226 of Constitution of India pleased to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order issued by the 1st respondent in Na.Ka.E.9528/2003 dated 10.11.2003 and to quash the same and consequently to direct the 1st respondent to pass orders on the appeal made by the petitioner under section 7 of the Payment of Gratuity Act on merits and pass orders.

For Petitioner : Ms.N.Devi

For Respondents : Mr.K.Surendran , AGP
For R1, R2 & R89
R3 to R88- Not Ready Notice

ORDER

This writ petition has been filed seeking to quash the impugned order issued by the 1st respondent in Na.Ka.E/9528/2003 dated 10.11.2003 and to consequently, direct the 1st respondent to pass orders on the appeal made by the petitioner under Section 7 of the Payment of Gratuity Act.



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2. Mr.K.Surendran, learned Additional Government Pleader, takes

notice on behalf of the respondents 1, 2 and 89.

3. The case of the petitioner is that, the respondents 3 to 88 are employed as Sanitary workers in the erstwhile Salem Municipality and they have retired from service. All of them have retired before 1982. They have been employed on daily wages and they have been provincialised as per the orders of the Government in G.O.Ms.No.2469 Public Health & Family Welfare Department, dated 01.10.1973. On the date of retirement the respondents 3 to 88 have been granted with all terminal benefits and other benefits. However, after a lapse of several years in the year 1998, the respondents 3 to 88 have filed an application before the 2nd respondent for payment of gratuity under the provisions of Payment of Gratuity Act, 1972. The second respondent vide order dated 23.11.2000 allowed the said application in favour of the private respondents directing the petitioner Corporation to make payment of gratuity to the claimants for the entire service rendered by them. Aggrieved over the same, the petitioner preferred an appeal before the first respondent u/s.7 of Payment of Gratuity Act, 1972. However, the first respondent instead of considering the appeal on merits, passed an the impugned order dated 10.11.2003 on the ground that the appeals were not



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filed within the prescribed time limit as mandated u/s 7(7) of the Act.

WEB CHALLENGING the same, the petitioner is before this Court.

4. Though very many grounds have been raised in the above writ petition, the learned counsel for the petitioner submits that due to unforeseen situation, the petitioner was not able to file the Appeals within the prescribed limitation period i.e., 120 days. Hence, the impugned order passed by the first respondent rejecting the appeal filed by the petitioner management is *per se* unsustainable. Accordingly, he prays for allowing the above writ petition.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1, 2 and 89 and perused the materials available on record.

6. Admittedly, the controlling authority / second respondent passed the order dated 23.11.2000 directing the petitioner to pay gratuity to the respondents 3 to 88 within 30 days, against which, the petitioner preferred appeal before the appellate authority / first respondent, who in turn rejected the same vide order dated 10.11.2003 on the ground that the petitioner management has filed the appeal beyond the prescribed time limit of 120 days



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as per Section 7(7) of the Act. For better appreciation, the relevant provisions

u/s.7(7) of the Act is extracted hereunder:

7(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.

7. A perusal of Section 7(7) of the Act reveals that any appeal aggrieved by an order under sub-section (4) of the Act has to be filed within the period of sixty days from the date of receipt of the said order, in case if any sufficient cause is shown to the appellate authority, the Government has power under the proviso to Section 7 of the Act to extend the period of limitation further for a period of 60 days.

8. Though the facts stands as such, however, in the present case on hand, the controlling authority has passed the order on 23.11.2000, however,



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the petitioner has not chosen to file appeal before the appellate authority

within the prescribed limitation period of 120 days as per Section 7(7) of the

Act. Therefore, the delay caused by the petitioner cannot said to be a sufficient

ground for consideration. Hence, the impugned order passed by the first

respondent dated 10.11.2003 cannot be interfered with, since he has no power

to extend the prescribed time frame as per the statutes.

9. With the above observations and reasons, this Writ Petition is dismissed. No costs. Consequently, the connected writ miscellaneous petitions are closed.

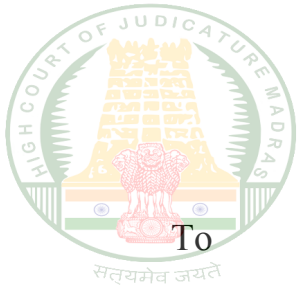
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Index : Yes / No

Speaking order / Non-speaking order

NCC:Yes/No

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To

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Under Payment of Gratuity Act),
Coimbatore-18.

2. The Assistant Commissioner
of Labour/Controlling Authority,
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3. The Tahsildar
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