



W.P.Nos.25691 & 25693 of 2021

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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DATED : 16.04.2025

PRESENT:

**THE HONOURABLE DR. JUSTICE A.D.MARIA CLETE**

W.P.Nos.25691 & 25693 of 2021  
and  
W.M.P.Nos. 27128 & 27129 of 2021

The Senior Regional Manager,  
Tamil Nadu Civil Supplies Corporation,  
Chennai North Region,  
Gopalapuram, Chennai – 600 086.

... Petitioner in both WPs.

Vs.

1. The Additional Commissioner of Labour /  
Appellate Authority under the  
Payment of Gratuity Act, 1972  
O/o. The Commissioner of Labour,  
D.M.S.Campus. Teynampet,  
Anna Salai, Chennai – 600 006.
2. The Deputy Commissioner of Labour – I  
Controlling Authority Under the  
Payment of Gratuity Act, 1972,  
O/o. The Commissioner of Labour,  
D.M.S Campus, Teynampet, Anna Salai,  
Chennai – 600 006.
3. Thiru. K. Venkatchalam,



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Vedambur South Street  
Mathur (P.O) Alangudi (Via)  
Valangaiman Taluk,  
Thiruvavarur – 612 801.

... Respondents in WP.No.25691 of 2021

1. The Additional Commissioner of Labour /  
Appellate Authority under the  
Payment of Gratuity Act, 1972  
O/o. The Commissioner of Labour,  
D.M.S.Campus, Teynampet,  
Anna Salai, Chennai – 600 006.

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O/o. The Commissioner of Labour,  
D.M.S Campus, Teynampet, Anna Salai,  
Chennai – 600 006.

3. Thiru. S. Jaya Kannu,  
1, Kotteswaran Sannadhi,  
Kilakottaiyur, Mela Cauvery (P.O),  
Kumbakonam. ... Respondents in WP.No.25693 of 2021

Prayer in W.P.No. 25691 of 2021

To issue a writ of certiorari or any other appropriate writ, order or direction, more specifically in the nature of writ of certiorari to call for the records of the first respondent in the nature of writ of certiorari to call for the records of the first respondent in No.O.M.E/1378/2020 dated 22.09.2020 by setting aside the order dated 22.09.2020 and thereby remanded back the matter to



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the first respondent for fresh disposal of the Appeal dated 21.06.2020 preferred by the petitioner herein and pass such further orders that his Court may deem fit and thus render justice.

Prayer in WMP.No. 27128 of 2021

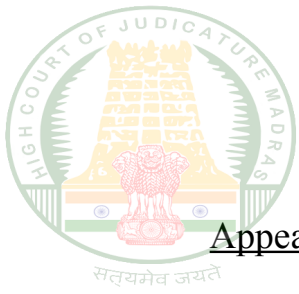
To pass an order of interim injunction restraining the first respondent not to disburse the deposited amount of Rs.2,00,595/- to the third respondent pending disposal of this writ petition and thus render justice.

Prayer in W.P.No. 25693 of 2021

To issue a writ of certiorari or any other appropriate writ, order or direction, more specifically in the nature of writ of certiorari to call for the records of the first respondent in the nature of writ of certiorari to call for the records of the first respondent in No.O.M.E/1379/2020 dated 22.09.2020 by setting aside the order dated 22.09.2020 and thereby remanded back the matter to the first respondent for fresh disposal of the Appeal dated 09.07.2020 preferred by the petitioner herein and pass such further orders that this Court may deem fit and thus render justice.

Prayer in WMP.No. 27129 of 2021

To pass an order of interim injunction restraining the first respondent not to disburse the deposited amount of Rs.1,93,551/- to the third respondent pending disposal of this writ petition and thus render justice.



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**Appearance of Parties:**

For Petitioner : Mr. C. Selvaraj in both cases.

For Respondents : Mr. R. Kumaravel, Additional Government  
Pleader for R1 & R2 in both cases.

No

appearance for R3 in both cases.

**J U D G M E N T**

Heard.

2. The petitioner, Senior Regional Manager of the Tamil Nadu Civil Supplies Corporation, challenges the impugned order dated 22.09.2020 passed by the Additional Commissioner of Labour, functioning as the Appellate Authority under the Payment of Gratuity Act, 1972. By the said order, the appeals filed against two orders of the Controlling Authority were returned on the grounds that there was a four-day delay in filing and that the mandatory certificate of deposit had not been enclosed. The original orders, passed in P.G. Nos. 56 and 58 of 2018, had directed payment of additional gratuity of Rs.2,00,595/- and Rs. 1,93,551/- respectively to two former seasonal watchmen, K. Venkatachalam and S. Jaya Kannu, along with 10% in-



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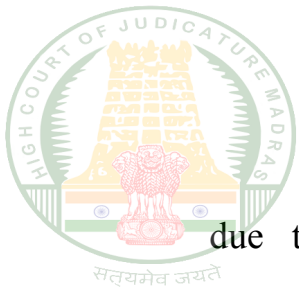
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terest, computed based on their total service tenure and not limited to seasonal engagements.

3. On 08.12.2021, notice was ordered to the respondents in both writ petitions. Thereafter, the cases were listed before the Lok Adalat and subsequently reposted before the Court, where they were adjourned from time to time.

4. As regards the factual background, the third respondents—having been engaged as seasonal employees on consolidated wages—were paid gratuity upon retirement under Section 4(1) of the Act, calculated solely for their seasonal service. Though they initially accepted the payments of Rs.67,248/- and Rs. 81,637/- respectively, they later filed claims seeking re-calculation for their entire period of engagement. The Controlling Authority condoned the delay of two years in filing and passed the impugned orders in February 2020 awarding enhanced gratuity.

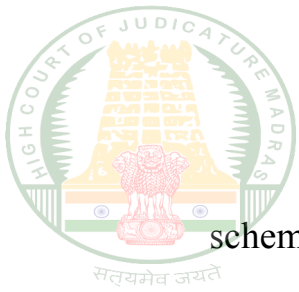
5. The petitioner submits that the delay in preferring the appeals arose



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due to the Covid-19 lockdown and administrative disruptions from 24.03.2020 onwards, which impeded the timely procurement of the deposit certificate. Although the gratuity amounts were deposited on 02.06.2020 & 09.07.2020 respectively, the certificates could not be obtained promptly. It is further contended that the Appellate Authority failed to apply the general directions of the Hon'ble Supreme Court, which excluded the period from 15.03.2020 to 02.10.2021 from the computation of limitation in all judicial proceedings. Emphasising that no prejudice would be caused to the third respondents if the appeals were considered on merits, the petitioner seeks to quash the order of return and prays for remand of the appeals for fresh adjudication including a prayer to restrain disbursement of the deposited amounts pending disposal.

6. The impugned appeals were preferred against the orders of the Controlling Authority dated 20.02.2020 & 11.02.2020 respectively, which were admittedly received by the petitioner on 10.03.2020 & 06.03.2020 respectively. The appeals were filed on 21.06.2020 & 09.07.2020 respectively — thus, 103 & 125 days after receipt of the orders. Under the

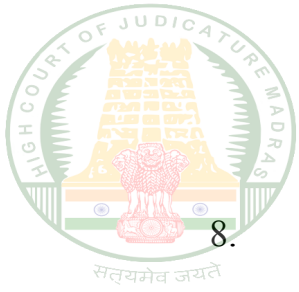


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scheme of the Payment of Gratuity Act, 1972, Section 7(7) requires that an appeal be filed within 60 days, and Section 7(8) permits a further extension of up to 60 additional days upon sufficient cause being shown, thereby allowing a maximum of 120 days from the date of receipt of the order.

7. On this count, the appeal filed against the order dated 11.02.2020 in W.P.No.25693 of 2021 was filed with a delay of 5 days beyond the outer limit of 120 days. If the Appellate Authority considered only 124 days—perhaps by excluding either the date of receipt or the date of filing—it may have computed the excess as  $124 - 120 = 4$  days, thus characterizing the delay as one of four days. On the other hand, in W.P.No.25691 of 2021, the appeal filed against the order dated 20.02.2020 was filed well within the outer limit of 120 days. Hence, the impugned order passed in W.P.No.25691 of 2021 rejecting the appeal filed on the ground of four days delay is unsustainable as the appeal has been filed within the outer limit and the matter shall be remanded back to the appellate authority for fresh consideration on merits.



8. In any event, in W.P.No.25693 of 2021, whether the delay is four or five days, it still technically exceeds the maximum condonable period under Section 7(8) of the Act. However, the delay occurred during the nationwide disruption caused by the Covid-19 pandemic, and the Hon'ble Supreme Court, in *In Re: Cognizance for Extension of Limitation* [Suo Motu Writ Petition (C) No. 3 of 2020], directed that the entire period from 15.03.2020 to 28.02.2022 shall stand excluded for the purpose of computing limitation under all general or special laws with respect to judicial or quasi-judicial proceedings. If this binding directive is applied, the delay would not only fall within the condonable window but would cease to be a delay at all.

9. The fact that the petitioner did deposit the ordered gratuity amounts on 02.06.2020 & 09.07.2020—though the certificate of deposits could not be issued immediately—further demonstrates bona fides.

10. Accordingly, the rejection of the appeal in W.P.No.25693 of 2021 on the ground of delay is not sustainable either under the statute or in equity. Hence, the impugned order deserves to be set aside and the matters be re-



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mitted for adjudication on merits.

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11. The impugned orders in W.P.Nos.25691 & 25693 of 2021 are accordingly remanded to the Appellate Authority for fresh disposal on merits. The Appellate Authority is directed to number the appeals and proceed in accordance with law, after issuing notice to the third respondents. The third respondents in both the writ petitions are permitted to withdraw 50% of the amount deposited by the petitioner before the Appellate Authority, without prejudice to their rights in the pending appeal.

12. Accordingly, the writ petitions are allowed on the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

**16.04.2025**

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No



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**DR. A.D.MARIA CLETE, J**

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