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W.P. No.1982 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.1982 of 2022
and W.M.P. No.2138 of 2022

The Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Behind District Collector Office,
Siluvampatty P.O.,
Namakkal - 637 003. .. Petitioner

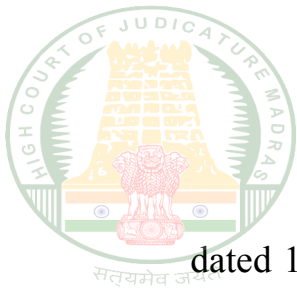
vs.

1. The Additional Commissioner of Labour,
Appellate Authority under the Payment of
Gratuity Act, 1972,
Dr. Balasundaram Road,
Coimbatore - 641 018.

2. The Deputy Commissioner of Labour - 1/
controlling Authority under the
Payment of Gratuity Act, 1972,
Yercaud Main Road, Korimed,
Salem - 636 008.

3. R. Ravi S/o. T.K. Ramasamy .. Respondents

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari calling for the records of the 1st respondent in R.C. No.AA/3737/2021, AA/3738/2021 and AA/3739/2021



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dated 11.11.2021 and quash the same, thereby remand the matter back to the 1st respondent for fresh disposal of the appeal dated 08.11.2021 preferred by the petitioner herein on merits.

For Petitioner : Mr. C. Selvaraj

For Respondents : Mr. E.P. Senniyanigiri,
Government Advocate [for R1 & R2]

Mr. R. Krishnasamy [for R3]

ORDER

This Writ Petition has been filed by the petitioner to call for the records of the 1st respondent in R.C. No.AA/3737/2021, AA/3738/2021 and AA/3739/2021 dated 11.11.2021 and to quash the same and remand the matter back to the 1st respondent for fresh disposal of the appeal preferred by the petitioner.

2. The learned counsel appearing for the petitioner would submit that the 3rd respondent herein was working as Seasonal Bill Clerk in Direct purchase centres during Kuruvai and Samba harvest seasons to purchase Paddy from farmers in Delta Districts from 1980, temporarily on a consolidate monthly wages as prescribed by the Government / petitioner Management every now and then and was ousted from service for want of vacancy either



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on the closure of direct purchase centres or on the expiry of season. The 3rd respondent was a seasonal employee. In order to engage the seasonal employees, two settlements under Section 12(3) of Industrial Disputes Act were entered with Trade Unions on 19.09.1991 and 30.01.1997, wherein, it has been admitted that the DPC employees are seasonal employees and the 3rd respondent was appointed as Assistant Quality Inspector on 03.09.1993 in regular employment and thereafter, he was retired as Deputy Manager (Q.C.) on 30.06.2015 on attaining the age of superannuation. The 3rd respondent was paid a sum of Rs.5,52,195/- as payment of Gratuity on 02.02.2016 and thereafter, a sum of Rs.1,71,946/- was sanctioned on 15.10.2020 towards 7th Pay Commission differential gratuity and in total, a sum of Rs.7,24,141/- was paid to the 3rd respondent. Thereafter, the 3rd respondent filed an application in the year 2020 before the 2nd respondent, claiming gratuity for 34 years by taking into account all the seasonal employment as regular service in gross violation of provision of the Payment of Gratuity Act. The 2nd respondent, without valid reasons, condoned the delay in filing the application and took the application in P.G. No.2 of 2021 and directed the petitioner to pay a sum of Rs.1,49,822/- towards balance gratuity with interest @ 10%, through an order dated 15.03.2021 and the same was received by the petitioner on



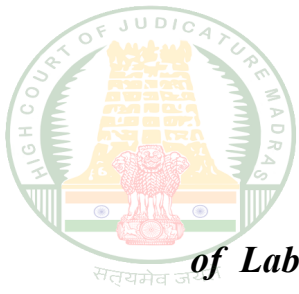
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03.04.2021. Thereafter, on 31.05.2021, a cheque was drawn for Rs.1,49,822/- by indicating that an appeal to be filed with a request not to disburse the deposited amount to the 3rd respondent. Thereafter, an appeal was filed before the Additional Commissioner of Labour, the 1st respondent herein, on 08.11.2021 and the same was returned by a common order dated 11.11.2021 by pointing out that there is a delay of 220 days in filing the appeal. As per the order of Hon'ble Supreme court due to COVID-19 pandemic situation, the limitation period from 15.03.2020 to 02.10.2021 was excluded, but the 1st respondent has returned the appeal filed by the petitioner through a common order dated 11.11.2021 in R.C. No.AA/3737/2021, AA/3738/2021 and AA/3739/2021 and the same are liable to be set aside and the matter has to be remanded back to the 1st respondent for fresh consideration in accordance with law.

2(i). In support of his argument, the learned counsel appearing for the petitioner has relied upon the following judgments:

(i) In Recognizance for Extension of Limitation vs. xxxx in Miscellaneous Application No.665/2021 in SMW(C) No.3/2020;

(ii) The Senior Regional Manager vs. The Additional Commissioner



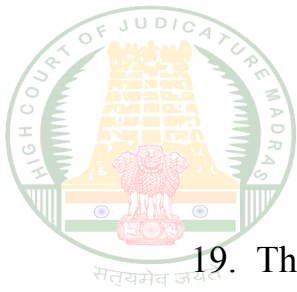
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of Labour/ Appellate Authority under the Payment of Gratuity act and others in W.P. Nos.25691 & 25693 of 2021;

(iii) The Senior Regional Manager vs. The Additional Commissioner of Labour and others in W.P. Nos.24455 of 2019 & 34413 of 2018.

(iv) The Senior Regional Manager vs. The Joint Commissioner of Labour, Trichy and others in W.P. No.32467, 32847, 33079, 33172, 33334, 33825 and 34732 of 2018.

3. The learned counsel appearing for the respondents would submit that the 3rd respondent was working under the petitioner and he retired from service on 30.06.2015 on attaining the age of superannuation and already the gratuity amount was settled to him and there was a difference, thereby he filed a petition before the 2nd respondent and the same was allowed. Against which, the petitioner filed an appeal before the 1st respondent. There was a delay in filing the appeal before the 1st respondent, thereby, the 1st respondent correctly returned the papers. There was no specific pleading in the appeal filed by the petitioner as about the delay due to COVID-19. Therefore, the petitioner is not entitled to the benefit of the judgment of Hon'ble Supreme Court by excluding the period of limitation due to COVID-



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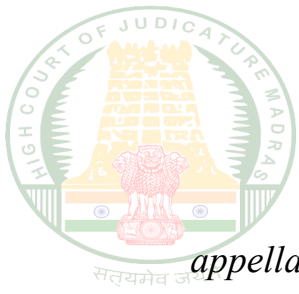
19. Therefore, the present Writ petition is liable to be dismissed.

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4. Heard both sides and perused the materials available on record.

5. It is an admitted fact that the 3rd respondent was working under the petitioner Management and already he retired from service due to attainment of the age of superannuation and gratuity amount was also settled to him and thereafter, the 3rd respondent filed an application before the 2nd respondent and the same was allowed by directing the petitioner to pay the difference amount of gratuity amount to the 3rd respondent and the same was challenged through an appeal before the 1st respondent. The 1st respondent returned the appeal through a common order dated 11.11.2021 on the ground of delay in preferring the appeals.

6. As per Section 7(7) of The Payment of Gratuity Act, "*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*

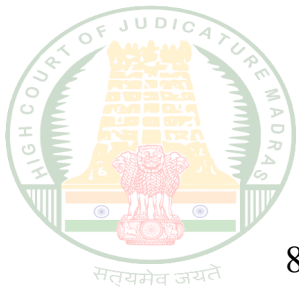


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appellate authority, as the case may be, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days".

7. In this case, the order of the 2nd respondent dated 15.03.2021 directing the petitioner to pay the difference amount of gratuity amount to the 3rd respondent, was served on 03.04.2021, but the appeal was presented on 08.11.2021, which is beyond the period of limitation mentioned under Section 7(7) of the Payment of Gratuity Act. However, the said period from 03.04.2021 to 28.02.2022 was excluded as per the judgment of Hon'ble Supreme Court in (i) ***In Recognizance for Extension of Limitation vs. xxxx in Miscellaneous Application No.665/2021 in SMW(C) No.3/2020***, (ii) ***The Senior Regional Manager vs. The Additional Commissioner of Labour/ Appellate Authority under the Payment of Gratuity act and others in W.P. Nos.25691 & 25693 of 2021***. As per the order of the Hon'ble Supreme Court, the entire period from 15.03.2020 to 28.02.2022 was excluded for the purpose of computing limitation, but the same has not been considered by the 1st respondent.



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8. On careful perusal of the judgments of the Hon'ble Supreme Court relied upon by the learned counsel appearing for the petitioner, it is clear that the period from 15.03.2020 to 28.02.2022 was excluded for the purpose of computing limitation under all general or special laws with respect to judicial or quasi-judicial proceedings. In the case on hand also, there is a delay in preferring the appeal and the said period is covered under COVID-19 period. Therefore, the order passed by the 1st respondent in R.C. No.AA/3737/2021 dated 11.11.2021 is set aside and the matter is remanded back to the 1st respondent / Appellate Authority for fresh consideration on merits. Since the petitioner deposited the amount before the 2nd respondent subject to the outcome of the result of the appeal, the 3rd respondent is permitted to withdraw 50% of the amount and the 1st respondent is directed to dispose the appeal within **2 months from the date of receipt of a copy of this order.**

9. With the above said directions, this Writ petition is allowed and there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.



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Index : Yes/No

Speaking order/non-speaking order

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