



WEB COPY



W.P.No.39834 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.39834 of 2024

The Management
M/s.HI-TECH INDUSTRIES
Rep.by Prop. D.Mohan Kumar
Plot No.B, 1st Cross Street
First Main Road
Opp.AIEMA TECH CENTRE
Ambattur Industrial Estate
Chennai 600 058.

... Petitioner

Vs.

1.The Joint Commissioner of Labour for Gratuity
Appellate Authority
Labour Welfare Board Building
6th Floor, DMS Complex
Teynampet, Chennai 600 006.

2.P.Vijayakumar

1/6



W.P.No.39834 of 2024

3.The Management

M/s. Everest Engineering
Plot No.B, 1st Cross Street
First Main Road
Opp.AIEMA TECH CENTRE
Ambattur Industrial Estate
Chennai 600 058.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records to the first respondent proceedings in Na.Ka.E/2458/2024 dated 07.10.2024 and set aside the same and directing the first respondent to take the appeal on the file and dispose it on merits.

For Petitioner : Mr.V.Manisekaran

For Respondents : Mr.K.Surendran for R1
Additional Government Pleader

ORDER

This Writ Petition is filed challenging the order dated 07.10.2024 passed by the first respondent the appropriate Authority under the Payment of Gratuity Act, 1972.



W.P.No.39834 of 2024

WEB COPY

2. Heard *Mr.V.Manisekaran*, the learned counsel appearing on behalf of the petitioner Management and *Mr.K.Surendran*, learned Additional Government Pleader appearing on behalf of the first respondent.

3. *Mr.V.Manisekaran*, learned counsel for the petitioner would submit that in this case, the gratuity has been erroneously calculated and ordered to be paid and only on the ground of limitation without considering the case on merits the appeal has been rejected. The learned counsel would submit that even the petitioner management has deposited the entire gratuity amount and the case can be considered on merits by this Court by giving an opportunity to the petitioner management.

4. I have considered the rival submissions made on either side and perused the material records of the case.

5. In this case, the petitioner had a right to file an appeal within



W.P.No.39834 of 2024

a period of 60 days and the condonable outer limit is another 60 days. Though it is a little bit harsh on the petitioner management which filed the appeal after 155 days instead of 120 days, it has now been held by the Honourable Supreme Court of India that merely because the law of limitation visits the particular management with unduly harsh consequences, the High Court cannot entertain Writ Petition under *Article 226* of the Constitution of India. When these are matters subject to statutory regime of appeal which also contains period of limitation and an upper limit for condonation also, it has been held by the Honourable Supreme Court of India in ***CCT Vs. M/s. Glaxo Smith Kline Consumer Health Care Limited***, reported in ***(2020) 19 SCC 681***¹ that the High Court under Article 226 can neither enlarge period of limitation nor entertain the Writ Petition after the lapse of the statutory period.

6. In view thereof, I am of the view that the Writ Petition cannot be entertained. Finding no merits, this Writ Petition is dismissed. No costs.

¹***(2020) 19 SCC 681***



W.P.No.39834 of 2024

02.01.2025

Neutral Citation : No
dna

To

The Joint Commissioner of Labour for Gratuity
Appellate Authority
Labour Welfare Board Building
6th Floor, DMS Complex
Teynampet, Chennai 600 006.



WEB COPY



W.P.No.39834 of 2024

D.BHARATHA CHAKRAVARTHY, J.

dna

W.P.No.39834 of 2024

02.01.2025