

W.P.(MD).No.24511 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.06.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.24511 of 2018

and

W.M.P.(MD)No.22220 of 2018

The Management
Hotel Aryaas,
67, Madurai Road,
Tirunelveli Road.

... Petitioner

Vs.

1. The Appellate Authority
(The Payment of Gratuity Act),
The Additional Commissioner of Labour,
Madurai.
2. The Controlling Authority
(The Payment of Gratuity Act),
The Assistant Commissioner of Labour,
Office of the Assistant Commissioner of Labour,
Tirunelveli.

3. Poolraj @ Pooliah

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, challenging the impugned order passed by the first respondent dated 10.10.2018 in P.G.A.(I.A)No.1/2018 and quash the same and further direct the 1st respondent to remand the petition in P.G.No.45 of 2016 to the second respondent and further to decide the same afresh and on merits.

For Petitioner : Mr.T.Selvan

For R-1 & R-2 : Mr.G.V.Vairam Santhosh
Additional Government Pleader

For R-3 : Mr.D.Saravanan

ORDER

The Management has filed the present Revision Petition challenging the order passed by the Appellate Authority under the Payment of Gratuity Act, dismissing the appeal on the ground of limitation.

2. The petitioner Management had suffered an order before the original authority under the payment of gratuity Act on 18.01.2017.



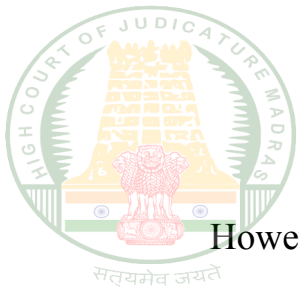
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Admittedly, they have received a copy of the order on 24.01.2017. The appeal was preferred before the Appellate Authority on 09.08.2017, with a delay of 194 days.

3. The Appellate Authority has passed the present impugned order rejecting the appeal on the ground that the delay had crossed 120 days and that the authority does not have any power to condone the delay. Challenging the said order, the present writ petition has been filed.

4. According to the learned Counsel appearing for the writ petitioner, the workman has already been settled with the amount which he had prayed for, and therefore, an opportunity may be granted to argue the appeal on merits after condoning the delay.

5. Per contra, the learned Counsel appearing for the third respondent /workman submitted that as per Section 7 (7) of the Payment of Gratuity Act, the appeal has to be filed within a period of 60 days. The Authority has the powers to condone the delay up to another 60 days.



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However, the present appeal having been filed with the delay of 194 days, is not maintainable. Therefore, the authorities has rightly dismissed the appeal.

6. I have carefully considered the submissions made on either side and perused the materials available on record.

7. As per the first proviso to Section 7 (7) of Payment of Gratuity Act, 1972, an appeal has to be filed within a period of 60 days and the period can be extended for further period of 60 days. Therefore, the appeal has to be preferred within a period of 120 days for being entertained by the Appellate Authority. It is also to be noted that the authority does not have any power to condone the delay beyond a period of 120 days. In such circumstances, the present appeal having been filed after 120 days, is clearly barred by limitation. The authority has rightly dismissed the condone delay application and has rejected the appeal.

8. It is the contention of the learned Counsel appearing for the



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petitioner that he has settled the amount and he has also deposited the amount before the Appellate Authority for preferring the appeal. In case, if any amount has already been settled, the same can be taken as defence when any coercive steps taken by the authorities for recovery.

9. With the above said observations, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

09.06.2025

Index : Yes / No
Internet : Yes / No
jbr

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R.VIJAYAKUMAR ,J.

jbr

Order made in
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