

(2007) 09 MAD CK 0195

Madras High Court

Case No: Writ Petition No. 26100 of 2007 and M.P. No. 1 of 2007

Commissioner, Edapadi
Municipality

APPELLANT

Vs

Joint Commissioner of Labour,
Appellate Authority under the
Payment of Gratuity Act and
Others

RESPONDENT

Date of Decision: Sept. 10, 2007

Acts Referred:

- Payment of Gratuity Act, 1972 - Section 7(7)

Citation: (2008) 116 FLR 385 : (2008) 1 LLJ 763

Hon'ble Judges: K. Venkataraman, J

Bench: Single Bench

Advocate: P.P. Shanmugasundaram, for the Appellant; G. Sankaran, S.G.P. for Respondent Nos. 1 and 2, for the Respondent

Judgement

K. Venkataraman, J.

The petitioner has come forward with the present Writ Petition challenging the proceedings of the 1st respondent dated May 11, 2007, to quash the same and consequently direct the 1st respondent to entertain the Appeal and pass orders on merits.

2. The case of the petitioner that against the award passed by the second respondent dated February 20, 2006, the petitioner has filed an Appeal on April 3, 2006 before the 1st respondent. The same has been returned on June 14, 2006 by the 1st respondent stating that the petitioner has not made the deposit as per the requirement of Section 7(7) of the Payment of Gratuity Act, 1972.

Thereafter, the petitioner re-presented the Appeal with necessary enclosures on April 3, 2007. The said Appeal has been rejected on the ground that there is a delay

of 399 days in preferring the Appeal.

3. Admittedly the Appeal has to be preferred within 60 days and thereafter the Authority constituted under the said Act has got power to condone the delay of 60 days. In the present case the Appeal has been preferred in time and the same has been returned for certain compliance and thereafter the petitioner had re-presented the Appeal. Hence, the date of filing of the Appeal at the first instance has to be taken into account. The petitioner has filed the Appeal against the proceedings of the second respondent dated February 20, 2006 on April 3, 2006 within time. While so, on erroneous view, the first respondent has rejected the Appeal on the ground that the Appeal has not been preferred within time.

4. In view of the said facts and circumstances of the case, I am inclined to set aside the order of the 1st respondent dated May 11, 2007 and the first respondent is directed to entertain the Appeal and pass appropriate orders on merits and in accordance with law, within a period of six (6) weeks from this date. This Writ Petition is ordered accordingly. Consequently, the connected M.P. is closed. No costs.