



WEB COPY

WP No. 224 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-07-2026

CORAM:

THE HONOURABLE MR.JUSTICE K.SURENDER

WP No. 224 of 2022

and

W.M.P.Nos.254 and 256 of 2022

The Administrative Officer,
Heavy Water Plant, Tuticorin,
Department of Atomic Energy,
HWP Colony , Tuticorin - 628 007

..Petitioner

Vs.

1. Shri.N.Subbiah
Ex- Sr Sec Guard,
229 Chiti Vinayagar Kovil Street,
Thalayuthu, Sankar Nagar PO,
Tirunelveli 627 357.
2. The Regional Labour Commissioner (Central),
Madurai,
Kanga Apartments,
Suite No.III, 1st Floor,
13-A, Lady Doak College Road,
Chinna Chokkikulam,
Madurai 625 002
3. Dy. Chief Labour Commissioner (Central),
5th Floor, Shastri Bhavan, Chennai-600 006.

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for records relating to the common order, dated 31.03.2021 passed by 3rd respondent, the learned Dy. Chief Labour Commissioner (Central), Chennai in PGA 62 of 2019 and quash the same.

For Petitioner(s):

Mr.S.Janarthanam



ORDER

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The petitioner is aggrieved by the impugned order dated 31.03.2021 passed by the third respondent, whereby it was held that the petitioner is not exempted under Section 5 of the Payment of Gratuity Act. As such, there is no exemption and the petitioner is entitled to pay Gratuity in respect of several employees of the organisation.

2. In support of his submissions, learned counsel appearing for the petitioner relied on a judgment of the Honourable Supreme Court in the case of N.Manoharn, etc., Vs. The Administrative Officer and another, in Civil Appeal No..... of 2026 @ Special Leave Petition (Civil Nos.22628 - 226376 of 2024), dated 11.02.2026, wherein the Honourable Supreme Court held that in respect of the petitioner's Heavy Water Plant therein and its employees, Sections 5 and 14 of the Payment of Gratuity Act, are not attracted and in paragraph 13 of the order, the Honourable Apex Court held as follows:

"13. Since its inception, a board has been constituted to manage the HWPs of the DAE. The retired employees admit that HWP is not incorporated under the Companies Act, is not recognised as a PSU, or functions as a Government Company. In other words, the other attributes of a separate legal entity, incorporated association, artificial person, limited liability, common seal, perpetual succession, and transferability of shares are not present. In substance, without any ambiguity, the HWP is created to manage the projects of the the DAE for



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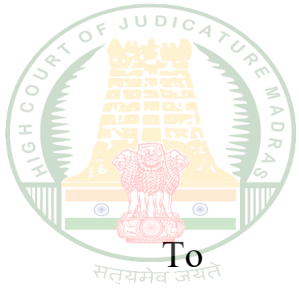
the production of heavy water. HWP at Tuticorin is a project under the management of the Heavy Water Projects Board of the DAE, and cannot, by sieving, separate itself from being an ancillary or adjunct of the DAE. For the limited purpose of gratuity, the larger and comprehensive establishment of atomic energy facilities by the Central Government is not replaced with a very narrow construction of the functional freedom given to the Heavy Water Projects Board or individual Heavy Water Plants. The jurisdictional fact, on appreciation, leads us to the conclusion that HWP is an adjunct or ancillary operating through the Heavy Water Projects Board of the DAE. On examination of constitution, establishment, and continuation, we notice the character of HWP as an adjunct of the Department of Atomic Energy, and by choice, we are not advertent to the appointment orders or any other circulars for deciding the jurisdictional fact of "employees". Therefore, the employees fall within the exclusionary clause of Section 2(e) of the PG Act. The result of such exclusion is that Sections 5 and 14 are not attracted in deciding on the applicability of the PG Act to the employees of HWP."

3. In view of the above-said judgment of the Honourable Supreme Court, the petitioner herein (Heavy Water Plant) is exempted under Sections 5 and 14 of the Payment of Gratuity Act.

4. Following the above judgment of the Honourable Supreme Court, the present Writ Petition is allowed as prayed for. There shall be no order as to costs. Consequently, the Miscellaneous Petitions are closed.

23.07.2026

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To

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Commissioner (Central)
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2. Dy. Chief Labour Commissioner (Central)
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K.SURENDER, J

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