

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 5.03.2015

CORAM

THE Hon'ble Mr.JUSTICE M. DURAISWAMY

W.P.Nos.24268 and 24269 of 2013
and
M.P.Nos.1 of 2013(2 in Nos.)
2 of 2013 (2 in Nos.)
and 3 of 2013 (2 in Nos.)

V. Jayachandran ...Petitioner in both the writ petitions

vs

1. Assistant Commissioner of Labour,
(Controlling Authority under the
payment of Gratuity Act, 1972)
Labour Welfare Building 6th floor,
Teynampet, Chennai - 600 006
2. The Tahsildar,
Tahsildar Officer,
Vriddhachalam ...Respondents 1 & 2 in both the writ petitions

K. Raju3rd respondent in WP No.24268 of 2013

Seetharama Reddiar3rd respondent in WP No.24269 of 2013

Writ Petitions filed under Article 226 of the Constitution of India praying this Court to issue Writs of Certiorarified Mandamus to call for the records and quash the order bearing Ref Nos.D1/4874/2011 and D1/4873/2011 dated 28.2.2012 issued by the first respondent, Assistant Commissioner of Labour (Controlling Authority under the Payment of Gratuity Act, 1972), Labour Welfare Building 6th Floor, Teynampet, Chennai-600 006 and consequently forbear the first respondent Assistant Commissioner of Labour (Controlling Authority under the Payment of Gratuity Act, 1972), Labour Welfare Building 6th Floor, Teynampet, Chennai and the second respondent, The Tahsildar,

Tahsildar Office, Vriddhachalam from recovering any amount from the petitioner as arrears of land revenue based on the order dated 28.2.2012 issued by the first respondent.

For petitioner : M/s Gupta and Ravi

For R.1 and R.2 : Mr.V. Subbiah,
Spl.Govt. Pleader

For 3rd respondent : Mr.D.S. Thirumavalvan

COMMON ORDER

The above writ petitions have been filed by the petitioner to call for the records pertaining to the order dated 28.2.2012 issued by the first respondent, Assistant Commissioner of Labour (Controlling Authority under the Payment of Gratuity Act, 1972) and consequently forbear the first respondent from recovering any amount from the petitioner as arrears of land revenue.

2. Since the issues involved in both the writ petitions are one and the same, they are disposed of by this common order.

3. It is not in dispute that the petitioner is carrying on business as a Bus Operator. The third respondent in both the writ petitions filed P.G.Nos.224 and 225 of 2002 against the father of the petitioner and the petitioner was impleaded as respondent, as Proprietor of Sri Rajarajeswari Bus Service. The third respondent in both the petitions put in more than 24 years of service and their services were retrenched and consequently they claimed gratuity amount.

4. The first respondent passed an order dated 21.3.2006, directing payment of Rs.26,188/- and Rs.25,139/- as gratuity together with interest at 10% p.a. Aggrieved over the order dated 21.3.2006, the petitioner has preferred P.G.Appeal Nos.48 and 49 of 2007 before the Appellate Authority under the Payment of Gratuity Act, 1972. While filing the appeal, the petitioner paid the gratuity amount to both the employees on 31.1.2006. By Order dated 25.1.2008, both the appeals, filed by the petitioner, were dismissed. Thereafter, the petitioner filed Writ Petitions in W.P Nos.6785 and 6786 of 2008 before this Court and this Court, by Order dated 15.2.2011 dismissed both the writ petitions.

5. The Writ Appeal, preferred by the petitioner, in W.A.No1972 of 2012, was also dismissed by this Court on 21.9.2012. Thereafter, the first respondent issued the impugned Certificate dated 28.2.2012, exercising the powers conferred under Sec.9 of the Act, directing the petitioner to pay the compound interest at the rate of 15% p.a., from the date of expiry of the prescribed time.

6. It was contended by the petitioner at the time of filing the appeal before the appellate authority that the petitioner had deposited the gratuity amount and therefore, under Sec.8 of the Act, the petitioner is not liable to pay interest more than the gratuity amount.

7. Admittedly, the amount was deposited by the petitioner only on 10.7.2013. When the petitioner was withholding the interest amount from April 2006 to 31.10.2006 and deposited only the gratuity amount on 31.10.2006, the third respondent was put to monetary loss. As already stated, the petitioner had deposited the interest amount till 31.10.2006 only on 10.7.2013.

8. When the petitioner failed to deposit the interest amount on 31.10.2006 and had deposited after lapse of seven years, the third respondent cannot be put to monetary loss by the fault of the petitioner. When the petitioner was having the interest amount with him till 10.7.2013, the petitioner is liable to pay the interest for the said amount upto 10.7.2013. The first respondent passed an order directing the petitioner to pay compound interest at 15% p.a.

9. The learned counsel appearing for the petitioner submitted that the rate of interest is very much on the higher side. It is pertinent to note that the original authority held that the petitioner is liable to pay simple interest only at the rate of only 10% p.a.

10. Taking into consideration the case of both the parties, I am of the view that the award of 15% compound interest is on the higher side, which cannot be granted and the petitioner can be directed to pay the interest at 10% p.a., simple interest on the amount due and payable by him from 31.10.2006 up to the date of actual payment i.e., 10.7.2013.

11. Therefore, the petitioner is directed to pay 10% interest on the amount payable by him till 31.10.2006. The simple interest shall be calculated from 1.11.2006 to 10.7.2013 at the rate of 10% p.a.

12. The petitioner shall deposit the above said amount within a period of four weeks from the date of receipt of copy of this order. On such deposit being made by the petitioner, the third respondent in both the writ petitions are permitted to withdraw the amount.

13. For the reasons stated above, the impugned certificate issued by the first respondent dated 28.2.2012 is quashed.

14. With the above observation, both the writ petitions are disposed of. No costs. Consequently, connected MPs are closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

sr

To

1. Assistant Commissioner of Labour,
(Controlling Authority under the
payment of Gratuity Act, 1972)
Labour Welfare Building 6th floor,
Teynampet, Chennai - 600 006
2. The Tahsildar,
Tahsildar Officer,
Vriddhachalam

1 CC to M/s Gupta and Ravi, Advocate SR.No. 12534

1 CC to the Government Pleader, SR.No. 12564

W.P.Nos.24268 & 24269 of 2013

BVR (CO)
PSI (19.03.2015)

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