

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

WRIT PETITION NO.10494 OF 2005

Between:

The Director of Sugar & Cane Commissioner,
Government of Andhra Pradesh, Hyderabad,
And others.

.. Petitioners

and

Vookuti Ganapati and others

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 16th SEPTEMBER,
2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE SANJAY KUMAR

1. Whether Reporters of Local newspapers
may be allowed to see the Judgment?

Yes/No

2. Whether the copies of the Judgment may be marked to Law Reporters/Journals Yes/No
3. Whether His Lordship wishes to see the fair copy of the Judgment? Yes/No

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.10494 OF 2005

ORDER

This writ petition was filed by the State authorities aggrieved by the order dated 30.08.2004 passed by the Controlling Authority under the Payment of Gratuity Act, 1972-cum-Assistant Commissioner of Labour, Vijayawada, in PGA Case No.11 of 2002 as well as the order dated 05.03.2005 passed by the Appellate Authority under the Payment of Gratuity Act, 1972-cum-Deputy Commissioner of Labour, Zone-II, Eluru, West Godavari District, in PGA Case No.13 of 2004 confirming the order dated 30.08.2004 passed in PGA Case No.11 of 2002.

By order dated 29.04.2005, this Court granted interim suspension of the order dated 30.08.2004 passed by the Primary Authority.

Despite the matter being adjourned on 14.08.2015, 01.09.2015 and 08.09.2015 to enable Sri B.Dananjaya, learned counsel appearing for the first respondent workman, to appear before this Court, he did not do so. Today also, the matter was passed-over owing to the absence of the learned counsel but again, there is no representation when the matter is taken up during the post-lunch session.

Heard the learned Assistant Government Pleader for Industries and Commerce.

The order passed by the Primary Authority and the order passed by the Appellate Authority confirming the same, which are under challenge, proceeded on the ground that 12 persons were employed in

the Cane Development Council at Vuyyur in Krishna District. As the statutory requirement under Section 1(3)(b) of the Payment of Gratuity Act, 1972 (for brevity, 'the Act of 1972') is that the establishment should have at least 10 or more persons employed therein for attracting the provisions of the said Act, the authorities were of the opinion that the Act of 1972 stood attracted and accordingly granted relief to the first respondent workman. It is relevant to note that according to the first respondent-workman, the provident fund contributions were being paid for 12 employees and therefore, the said fact established the employment of more than 10 persons. However, the authorities below lost sight of the fact that the claim of the first respondent workman in this regard was in relation to the entire district and not the Cane Development Council at Vuyyur, Krishna District, alone.

Learned Assistant Government Pleader referred to Section 5 of the Andhra Pradesh Sugarcane (Regulation of Supply and Purchase) Act, 1961, which provides that for each factory zone, the Cane Commissioner is to constitute a Cane Development Council, which shall be a body corporate by the name of the factory zone for which it is constituted, having perpetual succession and common seal with power to acquire, hold and dispose of the property and to enter into contracts, and may by its corporate name sue and be sued.

It is therefore clear that the Cane Development Council is a separate entity in itself and it cannot be construed that all Cane Development Councils coming under the control of the Cane Commissioner in a particular district would constitute one single body. As the very claim of the first respondent workman was based on the payment of provident fund contributions by the Cane Commissioner for the entire district and not in relation to the Cane Development Council at Vuyyur, Krishna District, it is clear that the number of employees were not computed correctly by the authorities below.

Trite to state, unless the statutory requirement is established, the question of applying the provisions of the Act of 1972 to the Cane

Development Council at Vuyyur, Krishna District, would not arise. As the said jurisdictional fact was not established, the authorities erred in applying the provisions of the Act of 1972 to the first respondent workman and in granting him relief. The impugned orders are accordingly set aside.

The writ petition is allowed. Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

16th SEPTEMBER, 2015
PGS