

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03-03-2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.38072 OF 2015

J.J.186, Manjakaranai Primary Agricultural
Co-operative Credit Society,
rep.by its President,
Manjankakranai Village & Post,
Uthukottai Taluk, Tiruvallur District.

... Petitioner

-Vs-

1. The Authority under the Payment of Gratuity Act/
Assistant Commissioner of Labour (i/c)/,
Deputy Commissioner of Labour,
Teynampet, Chennai.

2. E.Vasanthakumar

... Respondents

Petition filed under Article 226 of the Constitution
of India, praying for issuance of a writ of certiorari, to
call for the records of the order passed by the first
respondent in P.G.I.A.No.39 of 2014, dated 23.06.2015, and
quash the same.

For petitioner : Mr.V.Ravichandran

For respondent 1 : Mr.R.M.Muthukumar,
Additional Government Pleader

For respondent 2 : Mr.N.Nithiyanandam

O R D E R

Petitioner is the management of a Primary
Agricultural Co-operative Credit Society and they challenged
the order passed by the first respondent, computing the
gratuity payable to second respondent/employee.

2. Learned counsel for the petitioner primarily
contended that the impugned proceedings have been passed by
the first respondent without taking note of the fact that
there is an inordinate delay on the part of the second
respondent in approaching the forum well beyond the time
prescribed under the Payment of Gratuity (Central) Rules, 1972,
and the second respondent failed to show sufficient cause for
approaching the authority belatedly.

3. The first respondent, in the impugned proceedings, took note of the objection and recorded a factual finding that the petitioner management has accepted that they are liable to pay gratuity amount, by filing a counter affidavit, and in the light of the fact that gratuity is not a bounty, but an amount paid for the past service rendered by the employee, and computed the same.

4. Even before this Court, the petitioner does not dispute the entitlement of the second respondent for a gratuity of Rs.2,51,903/-. Therefore, no error can be attributed to the order of the first respondent, in computing the gratuity. Furthermore, the petitioner has not preferred any appeal against the order passed by the first respondent, as provided for under the Payment of Gratuity Act.

5. For all the above reasons, this Writ Petition is liable to be dismissed and the order passed by the first respondent is liable to be confirmed.

6. Learned counsel for the petitioner submitted that a sum of Rs.1,65,045/- is due and liable to be paid by the second respondent pursuant to the orders of surcharge proceedings, dated 30.06.2009, 05.10.2009 and 01.04.2015 and the petitioner being a Co-operative Society, their interest may be safeguarded and it may be permitted to retain the sum of Rs.1,65,045/- and release the balance amount of Rs.86,858/-.

7. Considering the peculiar facts and circumstances of the case and also taking note of the fact that the second respondent has not questioned the surcharge proceedings till-date, while dismissing the Writ Petition, there will be a direction to the petitioner to pay the second respondent a sum of Rs.86,858/-, by retaining the sum of Rs.1,65,045/-, with liberty to the second respondent to challenge the surcharge proceedings in the manner provided under the Tamil Nadu Co-operative Societies Act, and if such proceedings are challenged within a period of thirty days from the date of receipt of a copy of this order, the authority under the Act shall consider the petition, without rejecting the same, on the ground of limitation.

8. With the above direction and observation, this Writ Petition is dismissed. No costs. Consequently, the connected M.P.No.1 of 2015 is closed.

Sd/-

Assistant Registrar(CS IV)

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To

The Authority under the Payment of Gratuity Act/
Assistant Commissioner of Labour (i/c)/,
Deputy Commissioner of Labour,
Teynampet,
Chennai.

+lcc to Mr.N.Nithianandam, Advocate, S.R.No.14247(21.04.2016)
+lcc to Mr.M.S.Palaniswamy, Advocate, S.R.No.14195
+lcc to the Government Pleader, S.R.No.14341

W.P.No.38072 OF 2015

CTK(CO)
CA(16/03/2016)



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