

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P. Nos.25478 to 25482 of 2016

and WMP Nos.21803 to 21816 of 2016

The Management,
Tamilnadu State Transport Corporation
(Salem) Ltd.,
12, Ramakrishna Road,
Salem - 636 007.
Rep.by its General Manager ... Petitioner in all WPs

Vs.

1.The Appellate Authority,
Under the Payment of Gratuity Act, 1972
The Joint Commissioner of Labour,
Coimbatore.

2.The Controlling Authority,
(Under the Payment of Gratuity Act, 1972)
The Assistant Commissioner of Labour,
Office of the Deputy Commissioner of Labour,
Salem. ... Respondents 1 & 2 in all WPs

K.Rangarajan ...3rd Respondent in WP No.25478/2016

V.Ramasamy ...3rd Respondent in WP No.25479/2016

P.Karunkannan ...3rd Respondent in WP No.25480/2016

M.Nainappan ...3rd Respondent in WP No.25481/2016

K.Kamalesan ...3rd Respondent in WP No.25482/2016

Common Prayer : Writ petitions filed under Article 226 of the Constitution of India for issue of writ of certiorari calling for the records of the order of the 1st respondent, the Appellate Authority (Under the Payment of Gratuity Act, 1972), the Joint Commissioner of Labour, Coimbatore made in AGA Nos.29, 28, 52, 27 and 53/14 dated 22.07.2014 and the order passed by the 2nd respondent, the Controlling Authority ((Under the Payment of

Gratuity Act, 1972), The Assistant Commissioner of Labour, Salem made in P.G.Nos.31, 28, 29, 30 and 32/2012 dated 07.12.2012 and to quash the same.

For Petitioner : Mr.P.Paramasivadoss

For R-1 & R-2 : Mr.V.Jayaprakash Narayanan
Special Govt. Pleader.

COMMON ORDER

By consent, all these Writ Petitions are taken up for final disposal at the admission stage itself.

2. The Transport Corporation is before this Court challenging the order of the second respondent granting interest for the delayed payment of gratuity to the respective third respondents, as confirmed by the first respondent.

3. The third respondent in all these writ petitions have joined the services of the Transport Corporation on various dates and they retired on various dates. On their retirement, the respective third respondent workmen were paid gratuity for their respective services rendered by them. However, the respective third respondents approached the second respondent, the Controlling Authority (Under the Payment of Gratuity Act, 1972) / The Assistant Commissioner of Labour, Salem for grant of interest on delayed payment of gratuity under Section 4 of the Payment of Gratuity Act, 1972. After enquiry, the second respondent fixed 10% interest for the delayed payment for the period from the date of retirement till the date of payment. Aggrieved over the same, the petitioner filed appeals before the first respondent who confirmed the order of the second respondent except deducting one month's interest, as the petitioner has got one month's time limit for making the gratuity payment under Section 7 (3A) of the Payment of Gratuity Act, 1972. Those orders are being challenged before this Court.

4. Heard Mr.P.Paramasivadoss, learned counsel appearing for the petitioner.

5. It is an admitted fact that the respective third respondents retired long back and they were paid gratuity amount for their respective total services. When there is a delay in the payment of service gratuity, the said situation is covered by Section 4 of the Payment of Gratuity Act, 1972, by which the workmen is entitled to get interest on delayed payment. Taking note of the above said provision, the second respondent rightly allowed the claims of the respective third respondents. However, as per Section 7 (3A) of the Act, the petitioner has

got thirty days time to make the payment of service gratuity amount. Therefore, one month's time was rightly deducted by the first respondent and the appeal filed by the petitioner was partly allowed.

6. In view of the above said circumstances, the order passed by the first respondent cannot be interfered with and the same is in accordance with law. The writ petition fails.

7. In the result, all these writ petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

8. It is represented by the learned counsel for the petitioner that the petitioner had already deposited the entire interest amount, as per the order of the second respondent. Hence, the second respondent is directed to disburse the interest on the delayed payment of service gratuity to the respective third respondents, within a period of four weeks from the date of receipt of a copy of this order, as per the order passed by the first respondent, i.e. after deducting one month's interest, which shall be refunded to the petitioner.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

- 1.The Joint Commissioner of Labour,
Coimbatore.
- 2.The Assistant Commissioner of Labour,
Office of the Deputy Commissioner of Labour,
Salem.

+lcc to the Government Pleader Sr.42427
+lcc to Mr.P.Paramasivadosh, Advocate Sr.42373

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NRJK[co]
srg 12/08/2016