

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P. Nos.25483 to 25489 of 2016

and WMP Nos.21817 to 21830 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
W.P.Nos.25483,25484,25486,
25487 and 25489 of 2016
- 3.The Controlling Authority,
(Under the Payment of Gratuity Act, 1972)
The Assistant Commissioner of Labour (I/C)
Salem. ... 2nd Respondent in
W.P.No.25485/16, 25488/126
- 4.P.Varutharaju ... 3rd Respondent in WP No.25483/2016
- 5.K.Natarajan ... 3rd Respondent in WP.No.25484/2016
- 6.K.Venkatesan ... 3rd Respondent in WP No.25485/2016
- 7.S.Masilamani ... 3rd Respondent in WP No.25486/2016
- 8.P.Manickam ... 3rd Respondent in WP No.25487/2016
- M.A.Mohamed Yacoob ... 3rd Respondent in WP No.25488/2016
- C.Palanisamy ... 3rd Respondent in WP No.25489/2016

Prayer in WP No.25483/2016 : Writ petition 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 No.214 of 2014 dated 28.10.2014 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.No.32 of 2013 dated 28.01.2014 and to quash the same.

Prayer in WP No.25484/2016 : Writ petition 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 No.14 of 2015 dated 22.6.2015 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.No.78 of 2013 dated 12.06.2014 and to quash the same.

Prayer in WP No.25485/2016 : Writ petition 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 No.12 of 2015 dated 22.6.2015 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.No.77 of 2013 dated 12.08.2014 and to quash the same.

Prayer in WP No.25486/2016 : Writ petition 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 No.212 of 2014 dated 28.10.2014 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.No.45 of 2013 dated 28.01.2014 and to quash the same.

Prayer in WP No.25487/2016 : Writ petition 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 No.60 of 2014 dated 01.09.2014 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.No.20 of 2012 dated 04.01.2013 and to quash the same.

Prayer in WP No.25488/2016 : Writ petition 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 No.11 of 2015 dated 22.6.2015 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.No.79 of 2013 dated 12.08.2014 and to quash the same.

Prayer in WP No.25489/2016 : Writ petition 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 No.195 of 2014 dated 28.10.2014 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.No.36 of 2012 dated 06.11.2013 and to quash the same.

For Petitioner : Mr.P.Paramasivadosh
in all WPs

For R-1 & R-2 : Mr.V.Jayaprakash Narayanan
in all WPs 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.Paramasivados, 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(CS VI)

//True Copy//

Sub Assistant Registrar

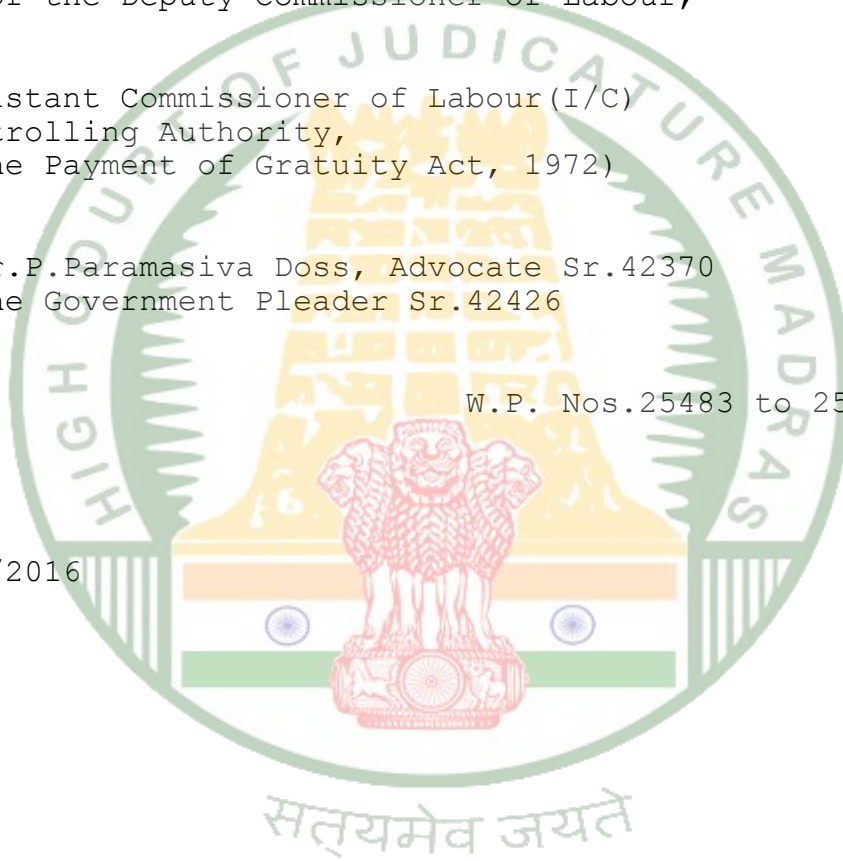
To

- 1.The Joint Commissioner of Labour,
The Appellate Authority,
Under the Payment of Gratuity Act, 1972
Coimbatore.
- 2.The Assistant Commissioner of Labour,
The Controlling Authority,
(Under the Payment of Gratuity Act, 1972)
Office of the Deputy Commissioner of Labour,
Salem.
- 3.The Assistant Commissioner of Labour(I/C)
The Controlling Authority,
(Under the Payment of Gratuity Act, 1972)
Salem.

+lcc to Mr.P.Paramasiva Doss, Advocate Sr.42370
+lcc to the Government Pleader Sr.42426

W.P. Nos.25483 to 25489 of 2016

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srg 16/08/2016



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