



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

and

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Writ Appeal (MD).No.414 of 2016

and

C.M.P.(MD).No.2912 of 2016

The Management,
Srinivasa Fire Works,
M.Duraisamy Puram,
Mamasapuram Post,
Sivakasi Taluk.

... Appellant/Petitioner

Vs.

1. The Appellate Authority,
under the Payment of Gratuity Act,
Joint Commissioner of Labour,
Madurai.

2. The Assistant Commissioner of Labour,
Authority under the Payment of Gratuity Act,
Madurai.

3. G.Koodammal

... Respondents

Prayer: Writ Appeal is filed under Clause XV of Letters Patent Act against the order passed made in W.P.(MD).No.1348 of 2007 dated 04.10.2010 on the file of the Madurai Bench of Madras High Court.

WP(MD)No.1348/2007:- Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of 1st respondent made in his proceedings in P.G.A.No. 50/2005 dated 29/12/2006 confirming the order of the 2nd respondent made in his proceedings in P.G.No. 45/2003 dated 2/11/2004 and quash the same.

For Appellant	:	Mr.S.Karthik
For R1 & R2	:	Mr.A.K.Baskara Pandian
		Special Govt. Pleader
For R3	:	Mr.S.Arivalagan

JUDGMENT

(Judgement of the Court was made by C.T.SELVAM, J.)

<https://hcservices.efforts.gov.in/hcservices/> respondent filed a petition before the Assistant Commissioner of Labour contending that she had been in the service of the appellant Srinivasa Fire Works from 1968, that her services



had been terminated under oral instructions in the year 2001, that she was refused further work and hence, she sought payment of gratuity. She had caused a legal notice on 17.05.2002, to which a reply dated 08.06.2002 has been received. Finding the reply untenable, she has moved P.G.No.45 of 2003 before the second respondent, Controlling Authority. During the pendency of the proceedings in P.G.No.45 of 2003, an application in I.A.No.77 of 2004 was filed seeking a direction to the appellant to produce the attendance register for the period from 1988 to 1993 and also the acquittance register for the period 2001. The appellant contended that such documents were not available, since they maintained documents only for a period of three years. The third respondent examined herself as P.W.1 and marked Exs.P1 to P5. The Proprietor of the appellant concern examined himself as R.W.1. A record summoned from the Provident Fund Office was marked as Ex.No.1. The delay in moving the P.G. proceedings was condoned by the authority stating that there were sufficient reasons in not approaching the authority and finding that the appellant had not produced any proof for having paid Rs.3,700/- towards gratuity or that first respondent had worked only for a period of four years on piece rate basis, second respondent found untenable contention that the third respondent had not worked continuously from 1988 till October 2001. Since appellant did not produce the crucial statutory register, adverse reference was also drawn against it. The second respondent held that the salary of the third respondent was Rs.1,300/- per month and directed payment of gratuity for a period of 13 years in a total sum of Rs.5,750/- together with 10% interest and costs of Rs.1,000/-. The appeal moved by the appellant in P.G.A.No.50 of 2005 was dismissed.

2. Aggrieved by the finding of the appellate authority, appellant has moved the W.P.No.1348 of 2007 before this Court. Learned Single Judge, taking into consideration the fact that the appellant had not produced the relevant statutory records and reasoning that contention of maintenance of records only for a period of three years was untenable as even under the Income tax Act, the documents which were not produced would be relevant and therein, there is no outer period of three years prescribed, found justified the drawing of adverse inference against the appellant/petitioner. Rejection of unstamped receipts produced by appellant/petitioner was found justified.

3. We find no reason to interfere with the finding of learned single Judge and the Writ Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(R)

/True Copy/



To

1. The Appellate Authority,
under the Payment of Gratuity Act,
Joint Commissioner of Labour,
Madurai.

2. The Assistant Commissioner of Labour,
Authority under the Payment of Gratuity Act,
Madurai.

+One cc to The Special Government Pleader, SR.No.15727

akv

RL/4C/3P/GSV/PM/13/4/2016

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