



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.09.2016

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD) Nos.18783, 18791 & 18792 of 2016

and

WMP(MD) Nos.13586,13587,13588,13573 and 13574 of 2016

Subramaniam Polytechnic College
Rayavaram - 622 506,
Pudukottai District,
rep.by its Principal
W.Ps.

... Petitioner in all

-vs-

The Assistant Commissioner of Labour,
(Controlling Authority under
Payment of Gratuity Act)
26, 3rd Street, Kaja Nagar,
Tiruchirapalli - 20.

... 1st Respondent in all W.Ps.

P.L.subramanian ... 2nd respondent in WP(MD)No.18783/2016
S.Arul ... 2nd respondent in WP(MD)No.18791/2016
S.P.Egammal ... 2nd respondent in WP(MD)No.18792/2016

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for records on the file of the first respondent in P.G.Nos.145, 144 & 146 of 2016 and quash the orders dated 08.08.2016 and consequential orders dated 10.08.2016.

For Petitioner: Mr.T.Ravichandran (all W.Ps.)

For R - 1 : Mr.T.S.Mohammed Mohideen

Additional Government Pleader

For R - 2 : No appearance (all W.Ps.)

COMMON ORDER

These Writ petitions have been filed to quash the orders dated 08.08.2016 and consequential orders dated 10.08.2016 passed by the first respondent.



2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader who takes notice for the first respondent. By consent, the writ petition itself is taken up for disposal at the stage of admission.

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3. The petitioner is an educational institution. The second respondent in each petition are teaching staffs in the petitioner institution. After their resignation, they filed claim petitions under payment of Gratuity Act before the first respondent. Due to Advocates boycott, the petitioner was not present on 22.07.2016 and statements of the second respondent were recorded. The petitioner has to cross examine the second respondent, but the case was posted on 10.08.2016 for argument. The petitioner sent a petition to re-open the case, but it was dismissed by the order dated 08.08.2016. The first respondent has allowed the claim petitions filed by the second respondent without hearing the arguments of the petitioner. Challenging both the orders, these Writ Petitions have been filed.

4. The grievance of the petitioner is that by the order dated 08.08.2016, the applications filed by the petitioner for cross examination of the second respondents have been dismissed.

5. A perusal of the orders would go to show that despite an opportunity given to the petitioner, opportunity was not utilised and therefore, the first respondent has rightly dismissed the applications.

6. Once a petition to recall the witness for cross examination is dismissed, then the next step would be to post the case for arguments. Once the petition to cross examine is filed and no orders are passed immediately thereafter, then the party, who filed the petition cannot anticipate the result of the petition and the party would not have come ready for argument anticipating that the petition would be dismissed. Whether the petition is allowed or dismissed, the next step is to place the case for argument should have been followed by the concerned authority. This Court is of the view that express opportunity to place arguments should have been given to the petitioner.

7. A perusal of the orders dated 10.08.2016 would go to show that no opportunity has been given to argue the matter.

8. Under such circumstances, the orders dated 10.08.2016 passed by the first respondent are hereby set aside and the matters are remitted back to the first respondent, who will provide an opportunity of presenting the arguments and to take a



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9.The Writ Petitions are disposed of with the above directions. No costs. Consequently, connected WMP(MD)Nos.13573 & 13574, 13586, 13587 & 13588 of 2016 are closed.

Sd/-

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar

To

The Assistant Commissioner of Labour,
(Controlling Authority under Payment of Gratuity Act)
26, 3rd Street, Kaja Nagar,
Tiruchirapalli - 20.

+1 cc to M/s.T.Ravichandran, Advocate in SR.No. 57436
+1 cc to The Special Government Pleader in SR.No. 57946

mj

CSL/PV/16.11.2016: 2P/4C

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