

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.26492 of 2017

The President / Management  
Elavadi Primary Agricultural  
Co-op. Credit Society  
Moongipadi Post, Chinnasalem Taluk  
Villupuram District .. Petitioner

-vs-

1. The Controlling Authority  
(Under Payment of Gratuity Act 1972)  
O/o Deputy Commissioner of Labour  
Vellore-1
2. S.Arunachalam .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order of the first respondent in P.G.I.A.No.1/2017 dated 27.03.2017 and quash the same and consequently directing the first respondent to reopen the P.G.case and decide after giving full opportunities to the petitioner.

For Petitioner :: Mr.P.Narayanamoorthy

For Respondents:: Mr.V.Jayaprakash Narayanan  
Special Government Pleader

ORDER

The petitioner has come to this Court with the present writ petition challenging the order passed by the Authority under the Payment of Gratuity Act, 1972 in favour of the second respondent.

2. Learned counsel for the petitioner submitted that the petitioner society is registered under the provisions of the Tamil Nadu Cooperative Societies Act and the Rules framed thereunder. The second respondent, on reaching the age of superannuation, retired from service with effect from 31.1.2008 and his service records are maintained by the parent bank employer, since he was working with the society under foreign

service. Since the second respondent also faced some departmental proceedings, he was dismissed from service with effect from 24.8.92 on proved charges. Finally, he raised an industrial dispute in I.D.No.105 of 1993 on the file of the Labour Court, Cuddalore and successfully obtained an order of reinstatement with full backwages and other benefits. Challenging the said order, writ petition and writ appeal were unsuccessfully filed by the petitioner. Ultimately the second respondent was reinstated in service from 22.12.2006 and he worked till 31.1.2008, on which date he attained the age of superannuation. Thereafter, he was also paid with all the retiral benefits. However, dissatisfied with the fixation of his monthly salary, the second respondent filed C.P.No.15 of 2001 before the Labour Court, Cuddalore. When the said C.P., is pending, he had also approached the Authority under the Payment of Gratuity Act seeking gratuity with a wrong claim of Rs.13,954/- as his monthly salary, of course, with an application in P.G.I.A.No.104 of 2011 to condone the delay of 1327 days with unreasonable and unsatisfactory explanation and a counter was also filed by the petitioner to the said P.G.I.A.No.104 of 2011. However, the Authority under the Payment of Gratuity Act, condoned the delay and took up the main case in P.G.No.05 of 2013 based on the counter filed by the petitioner in the condone delay application. In the meanwhile, since the Secretary of the petitioner society was hospitalised, the matter was not pursued, as a result an ex parte order was passed on 18.12.2015 in P.G.No.05 of 2013 without giving opportunity to the petitioner. Thereafter, the petitioner filed P.G.I.A.No.1 of 2017 seeking to set aside the ex parte order dated 18.12.2015 and to reopen the case in P.G.No.05 of 2013, in which notice was issued. Subsequently, the Authority under the Payment of Gratuity Act, by the impugned order, dismissed the P.G.I.A.No.1 of 2017 filed by the petitioner and granted the relief in favour of the second respondent. In this background, the learned counsel pleaded that if an opportunity is granted, the petitioner would be able to explain that the order passed by the Authority under the Payment of Gratuity Act in P.G.No.05 of 2013 is wholly untenable and unjustified.

3. But this Court is not inclined to entertain the writ petition. The reason is that when the matter was pending before the Authority under the Payment of Gratuity Act, the counsel for the petitioner remained absent. Therefore, the matter was proceeded with and an ex parte order was passed on 18.12.2015. That shows that the petitioner was not diligent in prosecuting the matter. Subsequently, when an application was filed by the petitioner to set aside the ex parte order and to reopen the case, by the impugned order, the Authority has rejected the contentions of the petitioner holding that the petitioner was not serious in cooperating with the proceedings. The Authority also held that the petitioner has not offered any plausible

explanation to reopen the case. Moreover, the Authority has also held that the petitioner failed to implement the award passed by the Labour Court, Cuddalore in I.D.No.105 of 1993 in favour of the second respondent and has also failed to fix his salary, in spite of the dismissal of the writ petition and writ appeal by this Court. Therefore, this Court finds no merit in the writ petition. Accordingly, the writ petition fails and it is dismissed. Consequently, W.M.P.No.28209 of 2017 is also dismissed. No costs.

Sd/-  
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

ss

To

1. The Controlling Authority  
(Under Payment of Gratuity Act 1972)  
O/o Deputy Commissioner of Labour  
Vellore-1

2. The President / Management  
Elavadi Primary Agricultural  
Co-op. Credit Society  
Moongipadi Post, Chinnasalem Taluk  
Villupuram District

+ 1 cc to Mr.P.Narayanamoorthy, Advocate, SR.72945

+ 1 cc to The Govt.Pleader, SR.73379

सत्यमेव जयते

W.P.No.26492 of 2017

PVS (CO)  
NR 07/11/2017

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