

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2017

CORAM

THE HONOURABLE Mr. JUSTICE M. DHANDAPANI

W.P.No.36176 of 2003 &  
W.M.P.Nos.43913 & 43914 of 2003

Saraswathi

... Petitioner

vs.

1. The Joint Commissioner of Labour  
Appellate Authority,  
Under the Payment of Gratuity Act,  
Annanagar,  
Madurai-20.
2. Assistant Commissioner of Labour,  
Authority Under the Payment of Gratuity Act,  
Sundaram Theater Road,  
Madurai-20.
3. Jayanathi alias Rani
4. Nallamani
5. The Management,  
Q 504, Kondagai Primary Agricultural  
Co-operative Bank,  
Kondagai,  
Sivagangai District.

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of Certiorari to call for the records of the 1<sup>st</sup> respondent made in proceedings in P.G.A.No.42/2002 dated 06.10.2003 and quash the same.

For Petitioner : Mr.Babu Barveez  
for M/S.Silambanan Associates

For Respondents: No appearance

O R D E R

Writ Petition has been filed to issue a writ of Certiorari to call for the records of the 1<sup>st</sup> respondent made in proceedings in P.G.A.No.42/2002 dated 06.10.2003 and quash the same.

2. Heard the learned counsel for the petitioner and there is no representation for the respondents.

3. The brief facts of the case are as follows:

The petitioner is the mother of one deceased Manimaran and the third respondent is the wife of the said Manimaran and fourth respondent is the father of the deceased. For the sake of convenience, the parties were called by their relationships.

The father and mother of the deceased employee filed a petition before the controlling authority appointed under the payment of Gratuity Act. After implementing application and other things, the case was assigned with a number i.e., P.G.No.36/99 by its order dated 23.02.2002. If there is any dispute regarding the amount of gratuity payable to the employees under the Payment of Gratuity Act, the Authority can invoke Section 7 (4) (a) of the Payment of the Gratuity Act. Accordingly, the Controlling Authority, after taking into consideration of 2(h) of the Payment of Gratuity Act and Hindu Succession Act arrived at a conclusion that mother and wife are entitled to Payment of Gratuity and rejected the claim of father.

4. Aggrieved by the findings rendered by the Controlling Authority, wife of the deceased employee has filed an appeal before the appellate authority under the Payment of Gratuity Act, i.e., before the Joint Commissioner of Labour, Appellate Authority, under the Payment of Gratuity Act, Madurai and the authority assigned PGA.No.42/02. After contesting, the appellate authority had arrived at a conclusion that once the deceased employee nominated a person u/s. (4) (1)(ii) proviso of the Payment of Gratuity Act, the benefits has to be disbursed as per the nomination and if no nominee was appointed, the benefits shall be disbursed among the legal heirs of the deceased. Accordingly, the deceased employee nominated his father. However, he did not nominate his mother.

5. Contrary to his nomination, The Appellate Authority has arrived at a conclusion that class - I legal heirs of the deceased are entitled to the benefit of Payment of Gratuity. The appellate authority, after applying the law applicable under the Payment of the Gratuity Act, set aside the order passed by the controlling authority. After elaborate discussion, it is understood that the mother of the deceased is not living with the father of the deceased even prior to the marriage of the deceased. Therefore, the appellate authority rejected the claim made by the mother and granted gratuity in favour of the wife of the deceased. It is relevant to note that the father of the deceased made no objection before the appellate authority in granting benefits in favour of his daughter-in-law. Therefore, the Appellate Authority arrived at a conclusion with

regard to the Payment of the Gratuity and granted the same in favour of the deceased employee's nomination.

6. When the fact finding authority has arrived at a conclusion to grant gratuity benefits as per the nomination nominated by the deceased employee, I do not find any error or illegality in the order passed by the Appellate Authority and the same does not warrant interference of this Court.

In the result, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

gv/sji

To

1. The Joint Commissioner of Labour  
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2. Assistant Commissioner of Labour,  
Authority Under the Payment of Gratuity Act,  
Sundaram Theater Road,  
Madurai-20.
3. The Management,  
Q 504, Kondagai Primary Agricultural  
Co-operative Bank,  
Kondagai,  
Sivagangai District.

+1cc to M/S. Kaavya Silambanan Associates, Advocate in sr.no.61169

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KJ(CO)  
NR 22/09/2017