



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 24.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A. (MD) No.596 of 2011

and

W.M.P. (MD) No.1 of 2011

R.Parvathi

...Appellant

Vs.

1.Appellate Authority under the
Payment of Gratuity Act,
(Deputy Commissioner of Labour),
Madurai.

2.Controlling Authority Under the
Payment of Gratuity Act,
Assistant Commissioner of Labour,
Trivandrum Road,
Palayamkottai-627 002.

3.P.Velusamy

...Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent to set aside the order dated 22.01.2011 made in W.P.(MD) No.1189 of 2007 on the file of this Court.

Prayer in WP(MD). 1189/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, call for the records from the 1st respondent made in PGA 49 of 2005 dated 29/12/2006 confirming the order of the 2nd respondent made in PG 151/03 dated 28/02/2005, quash the same.

For Appellant	: Mr.M.V.Venkataseshan
For Respondents	: Mr.S.Arunachalam for R3
	: No appearance for R1 & R2

JUDGMENT

[Judgment of the Court was made by G.R.SWAMINATHAN, J.]

The unsuccessful writ petitioner is on appeal questioning the order dated 22.01.2011 made in W.P.(MD)No.1189 of 2007.

2.The third respondent herein was working in M.R.Gopalan Motor Service at Kovilpatti for over 38 years. He joined the said concern in 1964 and retired on 17.07.2002. According to the said employee, gratuity was not paid and therefore he filed an application for payment of his gratuity. The Authority under the Payment of Gratuity Act allowed the application filed by the third respondent herein by order dated 28.02.2005 in P.G.A.No.151/2003. Aggrieved by the same, the Management preferred an appeal before the Appellate Authority. The appeal was dismissed by order dated 29.12.2006. The Management then filed W.P.(MD)No.1189 of 2007, questioning the said orders passed by the authorities under the Payment of Gratuity Act. The learned Judge went through the entire materials on record and dismissed the Writ Petition by order dated 22.01.2011. Aggrieved by the same, this intra Court appeal has been filed.

3.Heard the learned counsel for the appellant as well as the employee.

4.When two authorities constituted under the relevant statute have held against the management and the same was not interfered with by the learned Single Judge, we are afraid that this Division Bench cannot take a different view. As rightly observed by the learned Single Judge, there is no provision under the Payment of Gratuity Act to pay gratuity on installment basis.

5.The learned Judge also noted that the ledger books were not properly maintained by the Management. Even though certain documents stated to have been signed by the employee were brought on record, they could not be given sufficient weight. We concur with the reasoning of the learned Single Judge. We find no merit in this writ appeal. This writ appeal is accordingly dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Cr1.Side)

/True Copy/



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+One cc to M/s.S.Arunachalam, Advocate, SR.No.67574

skm/smi

RL/4C/3P/KP/SAR1/11/8/2017

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and
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