



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.01.2017

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THE HON'BLE Mr.JUSTICE R.SURESH KUMAR**W.P.(MD) No.20701 of 2013****and****MP(MD)No.1 of 2013**

Tiruchirappalli Sarvodaya Sangh
No.9 J.P.Nagar
Dindigul Road,
Trichy-620 001
through its Secretary John Peter

... Petitioner

-vs-

1.The Appellate Authority under the
Payment of Gratuity Act
Joint commissioner of Labour, Trichy

2.S.Rengasamy

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorari to call for the records pertaining to the order of the 1st respondent/appellate authority/Joint Commissioner of Labour, Trichy in ப.கொ.மே.மு.வ.எண்:17/2012 dated 24.07.2013 and quash the same.

For Petitioner :Mr.T.Kumar

For Respondents : Mr.H.Balakrishnan for R2

O R D E R

The prayer in the writ petition is for a Certiorari to call for the records pertaining to the order of the 1st respondent/appellate authority/Joint Commissioner of Labour, Trichy in ப.கொ.மே.மு.வ.எண்:17/2012 dated 24.07.2013 and quash the same.

2. Challenging the order passed by the first respondent for payment of gratuity to the 2nd respondent, the petitioner has come out with the present writ petition with the aforesaid prayer.

3. In the order impugned, the first respondent, after having considered the rival claim made by the petitioner as well as the 2nd respondent, has finally directed the petitioner to pay a



sum of Rs.1,05,416/- as gratuity. Pursuant to the said order, the said sum has been deposited with the first respondent authority by the petitioner.

4. However, the grievance of the petitioner, mainly appears to be, in this case, is that the interest to be calculated for the said amount, since in higher side, as they demand for 10% of interest and the same is directed to be given, the petitioner being a Sarvodaya Sangh running the Organisation under non profit motive would get affected and its interest would be likely prejudiced.

5. After having heard both the counsel appearing for the petitioner as well as the 2nd respondent, a consensus has been reached between the petitioner and the 2nd respondent and accordingly, the 2nd respondent has agreed to take up the amount, based on his last drawn salary, which was wrongly fixed as Rs.5,537/-, but the actual salary as claimed by the petitioner is only Rs.3,955/- per month.

6. In support of the said claim, the petitioner has submitted the salary register of the petitioner for the month of June 2000, ie., the last month, where the 2nd respondent drawn salary. Thereafter, he had attained superannuation, according to which, the 2nd respondent's salary including all perquisites is only Rs.3,955/-. Based on these aspects, the parties have entered into an understanding through which, the 2nd respondent has agreed to take the amount only based on the calculation to be made by taking into account the salary of the 2nd respondent as only Rs.3,955/- per month, as his last drawn salary and for the amount calculated, based on which, the total gratuity amount can be calculated and the said amount would actually carry 10% simple interest from 01.07.2000 till the date of realisation.

7. In this regard, a calculation memo also has been filed on behalf of the 2nd respondent through his counsel, which is reproduced hereunder:

Calculation Memo filed by the 2nd respondent:

1.Date of Joining of 2 nd respondent	: 01.11.1967
2.Date of Superannuation of 2 nd respondent	: 30.06.2000
3.Total length of his service	: 33 years
4.His last drawn	
Basic + D.A. according to the petitioner	: Rs.3955/-
5.Total gratuity amount	:

Rs.3955 x 15/26x33
= Rs.75297.11

10% p.a. simple interest from 01.07.2000 till date of realisation.



8. The learned counsel for the petitioner submits that the petitioner also has agreed to pay the said amount of Rs.75,297.11/- as total gratuity to the 2nd respondent and also to pay interest of 10% per annum from 01.07.2000 till the date of realisation.

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9. This Court, after having considered the said submissions made by the learned counsel for both sides and also after having taken into record the said calculation memo filed by the 2nd respondent, for which, the petitioner also has agreed through his counsel, passes the following order:

(i) The second respondent shall be entitled to get a total gratuity of Rs.75,297.11/-;

(ii) The said amount shall carry interest of 10% per annum from 01.07.2000 till the date of realisation ;

(iii) Since the petitioner has already deposited a sum of Rs.1,05,416/- pursuant to the orders impugned on the file of the 1st respondent, the remaining amount, after calculating the interest along with the said principle, shall also be deposited by the petitioner within a period of eight weeks from the date of receipt of a copy of this order ;

(iv) The 2nd respondent shall be at liberty to receive the said amount deposited already/to be deposited by the petitioner from the first respondent by filing a claim petition in accordance with law and if such a petition is filed, the first respondent shall immediately take/consider such application and release the amount forthwith.

with these directions, the writ petition is disposed of. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(c)

/True Copy/

Sub Assistant Registrar

RR

To

The Appellate Authority under the
Payment of Gratuity Act
Joint commissioner of Labour, Trichy

+1cc to Mr.N.Balakrishnan,Advocate Sr.No. 1644

JAM/07.02.17/SV-MMS/SAR 3/ 3p-3c

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and M.P.No.1 of 2013

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