

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.11646 OF 2003

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:-

“to issue an order direction or writ particularly one in the nature of Writ of Mandamus or any other appropriate writ declaring the Memo No.SWC/E1/Diff.gratuity/2002 dated 23.5.2003 in rejecting the claim of the petitioners for payment of difference of gratuity amount is illegal, arbitrary and contrary to the provisions of Payment of Gratuity Act, 1972 and consequently direct the respondent to pay the difference of gratuity amount together with interest.”

2. Heard and perused the material available on record.
3. In similar circumstances, this Court passed an order, dated 30.03.1998, in W.P.No.2889 of 1997 in between **R.Nagaraju vs. Managing Director, A.P. State Ware Housing Corporation, Hyderabad** wherein it is observed at para Nos.11 and 12 as under:-

“11. Learned Counsel for the petitioner relies upon the decision in the Workmen of Metro Theatre Ltd. Bombay v. M/s. Metro Theatre Ltd. Bombay, MANU/SC/0334/1981 : (1981) IILLJ348SC in support of his contention that under sub-section (5) better terms of gratuity could be obtained by an employee by an agreement of contract with the employer. In that case it was observed that any subsequent gratuity scheme that was contemplated by the Act and that better terms of gratuity could be obtained by an employee by an agreement with the employer notwithstanding the scheme of gratuity obtained under the Act.

12. A plain reading of Regulation 4 shows that the Corporation granted better terms of gratuity to the employee. The petitioner is, therefore, entitled to be paid in accordance with Regulation 4.”

Challenging the said order, W.A.No.945 of 1998 was filed by the Andhra Pradesh State Warehousing Corporation and the same was disposed of on 24.06.1998 directing the appellant therein to pay the gratuity as is admissible with utmost expedition preferably, within a period of six weeks from the date of communication of that order.

4. In view of the judgment passed in W.A.No.945 of 1998 and as the facts and circumstances of the case on hand are squarely covered by the judgment passed supra in W.P.No.2889 of 1997, the respondent is hereby directed to pay the differential amount of Gratuity to the petitioners by placing reliance on Section 4(5) of Payment of Gratuity Act, 1972 and Regulation 4 of the Andhra Pradesh State Ware Housing Corporation Employees Gratuity Fund Regulations, 1974, as expeditiously as possible, preferably, within a period of three (3) months from the date of receipt of a copy of this order.

5. Accordingly, the Writ Petition is disposed of. There shall be no order as to costs.

6. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE RAJA ELANGO

Date: 19.09.2017
AMD

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