

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05-04-2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14321 of 2014

And

M.P.No.1 of 2014

The Management,
Tamil Nadu Civil Supplies Corporation Ltd.,
Represented by Senior Regional Manager,
No.12, Thambu Samy Road,
Kilpauk,
Chennai-600 010.Petitioner

Vs.

- 1.K.Narayanan
- 2.The Assistant Commissioner of Labour,
(Controlling Authority under Payment of Gratuity
Act, 1972),
Coimbatore.
- 3.The Joint Commissioner of Labour,
(Appellate Authority under Payment of Gratuity
Act, 1972),
Coimbatore. ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari calling for the records relating to the order passed by the Joint Commissioner of Labour, Coimbatore/third respondent herein in Case No.g/bfh/nk/K/59(A)/2012 dated 30.11.2013, confirming the order passed by the Assistant Commissioner of Labour/second respondent herein in Case No.\$p/V/138/2010 dated 7.12.2011 and quash the same.

For Petitioner : Mr.C.Munusamy
For Respondent-1 : Mr.K.M.Ramesh

For Respondents-2&3 : Mr.J.Ramesh,

Additional Government Pleader.

* * * * *

O R D E R

The order passed by the Joint Commissioner of Labour, Coimbatore/third respondent dated 30.11.2013, confirming the original order passed by the Assistant Commissioner of Labour/second respondent in Case No.G.A.138 of 2010 dated 7.12.2011, are under challenge in this writ petition.

2. The writ petitioner is the Tamil Nadu Civil Supplies Corporation Limited. The learned counsel for the writ petitioner states that the writ petitioner-Corporation is owned by the Government of Tamil Nadu and distributing essential commodities to the public through its fair price shops by Public Distribution System.

3. The first respondent-workman filed an application for payment of gratuity before the second respondent and considering the length of services under the provisions of the Act, the second respondent passed an award for a sum of Rs.65,378/- payable by the petitioner-Corporation to the first respondent-workman on the ground that the first respondent-workman served for a period of 30 years with the writ petitioner-Corporation.

4. The learned counsel for the writ petitioner states that the first respondent-workman had not served 30 years in the writ petitioner-Corporation. The first respondent-workman was appointed as a Trainee Salesman on 25.4.1978 and his services were confirmed as a permanent employee only with effect from 2.6.1990. Therefore, the calculation of 30 years of service for the purpose of granting gratuity is erroneous and the first respondent-workman had served about 18 years in the writ petitioner-Corporation. Therefore, the orders passed by the respondents 2 and 3 are in violation of the provisions of the Gratuity Act.

5. The learned counsel appearing for the first respondent-workman opposed the contentions by stating that the writ petitioner-Corporation has admitted the fact that the first respondent-workman was appointed as a Trainee Salesman on 25.4.1978. Further, it is an admitted fact that the first respondent was employed as a Salesman. Therefore, his training period of 12 years in the writ petitioner-Corporation is imaginary and unacceptable. The Salesman does not require a training period of 12 years. The normal training period for a Salesman would be one or maximum two years and therefore, the claim of the writ petitioner that the first respondent-workman continued as a Salesman trainee for 12 years is a misrepresentation and therefore, the authorities competent were rejected the contention of the writ petitioner-Corporation in this regard.

6. The learned counsel for the first respondent-workman further states that both the original authority as well as the appellate authority have taken a consistent view in respect of the calculation of the total qualifying services for the purpose of grant of gratuity under the provisions of the Act, based on the evidences and the documents placed before the authorities. Therefore, this Court, under writ jurisdiction, cannot dispute the factual aspects established before the competent authorities.

7. This Court is of the opinion that the judicial review, an order passed by the competent authority under the provisions of the Gratuity Act, is to the extent of considering, whether such authorities had exercised the powers by following the procedures in a reasonable and judicious manner or not. The factual recordings made by the authorities based on the evidences and the documents, cannot be interfered in this writ petition at this stage.

8. The scope of judicial review in respect of interfering with the factual recordings are limited. This being the factum of the case, this Court is of the opinion that the writ petitioner-Corporation has not made out any acceptable legal grounds for the purpose of interfering with the decision arrived by the competent authorities, namely, respondents 1 and 2.

9. Therefore, this Court do not find any error apparent or any infirmity in respect of the decision arrived based on the documents and the evidences before the competent authorities. Thus, the order passed by the Joint Commissioner of Labour, Coimbatore/third respondent in Case No.g/bfh/nk/K/59(A)/2012 dated 30.11.2013, confirming the original order passed by the Assistant Commissioner of Labour/second respondent in Case No.G.A.138 of 2010 dated 7.12.2011 are confirmed and the first respondent-workman is permitted to withdraw the deposited amount by filing necessary application before the authorities concerned.

10. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

-sd/-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Svn

To

1.The Assistant Commissioner of Labour,
(Controlling Authority under Payment of Gratuity
Act, 1972),
Coimbatore.

2.The Joint Commissioner of Labour,
(Appellate Authority under Payment of Gratuity
Act, 1972),
Coimbatore.

+1 C.C. to M/S.C.Munusamy Advocate SR.NO. 25699

+1 C.C. to M/S. K.M.Ramesh Advocate SR.NO. 25591

+1 C.C. to The Government Pleader SR.NO. 25979

W.P.No.14321 of 2014

VS 12.04.2018



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