

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 27.09.2018  
CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH  
AND  
THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.A.No.75 of 2018 and CMP.No.715 of 2018

1. The Tamil Nadu Electricity Board  
rep. by its Chairman,  
No.800, X Floor, K.R.R.Maalgai,  
Anna Salai, Chennai-600 002.
2. The Secretary,  
Tamil Nadu Electricity Board,  
No.800, X Floor, K.R.R.Maalgai,  
Anna Salai, Chennai-600 002. ... Appellants

Vs

1. S.Jagadeesan
2. The Assistant Commissioner of Labour-II,  
Office of the Deputy Commissioner of Labour,  
Labour Welfare Board Building,  
I Floor, D.M.S. Compound,  
Teynampet, Chennai-6.
3. The Government of Tamil Nadu  
rep. by its Secretary  
(Labour and Employment),  
Fort St. George,  
Chennai-9. ... Respondents

Prayer : Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 02.03.2012 made in W.P.No.40680 of 2002 by a learned Single Judge.

WP.No. 40680/02 Prayer: Writ of Mandamus directing the respondents 1 and 2 adopt the method of calculating of gratuity of the petitioner in accordance with the calculation provided under the payment of Gratuity Act 1972, and pay the Petitioner the difference in gratuity amounting to Rs.23,481/ with interest from the date the same has become due.

For Appellants :: Ms.Anuradha Gopalan  
for M/s.T.S.Gopalan

For Respondent :: M/s.V.Pushpa for R1

## JUDGMENT

(Judgment of the Court was pronounced by HULUVADI G.RAMESH, J.)

The Writ Appeal is directed against the order dated 02.03.2012 made in W.P.No.40680 of 2002 by a learned Single Judge.

2. The Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents 1 and 2 therein to adopt the method of calculation of gratuity of the writ petitioner in accordance with the calculation provided under the Payment of Gratuity Act, 1972 and pay the petitioner the difference in Gratuity amounting to Rs.23,481/- with interest from the date the same has become due. The said Writ Petition was allowed by the learned Single Judge by order dated 2.3.2012. Aggrieved over the same, the Tamil Nadu Electricity Board is before this Court with this Writ Appeal.

3. Heard the learned Counsel appearing for the appellants and the learned Counsel for the 1<sup>st</sup> respondent. We have also perused the order of the learned Single Judge.

4. It is pertinent to point out that the learned Single Judge while allowing the writ petition directed the respondents to calculate the gratuity of the 1<sup>st</sup> respondent herein/writ petitioner in accordance with the calculation provided under the Payment of Gratuity Act, 1972 and pay him the difference in Gratuity, with statutory interest as per the said Act, from the date of entitlement. However, the learned Counsel appearing for the appellants submitted that so far as the Tamil Nadu Electricity Board is concerned, as per G.O.(Ms.) No.699, Labour Employment Department, dated 16.3.1983, they are completely exempted from paying the gratuity amount. As such, according to the appellants, the question of payment of gratuity or any arrears thereof does not arise. Further, it is stated that instead of paying the Gratuity, DCRG is being paid. Accordingly, the DCRG amount was settled in favour of the 1<sup>st</sup> respondent.

5. In view of the above, the order of the learned Single Judge is set aside. However, what is being noted is that as per the contention of the learned Counsel for the 1<sup>st</sup> respondent, whatever be the benefit granted by way of DCRG in view of retirement to the 1<sup>st</sup> respondent, the calculation made was not proper and as such, the difference of the amount has to be paid. Since the Apex Court has enunciated that there is an exemption for TANGEDCO from payment of Gratuity, we are of the view that giving an option may not arise. However, DCRG has to be compulsorily paid. Therefore, if any amount difference would

arise, even in calculation by oversight, the appellants can look into and rectify the same and do the needful to the 1<sup>st</sup> respondent, in accordance with law.

6. With the above observations, the Writ Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

tsi

To

1. The Chairman,  
Tamil Nadu Electricity Board,  
No.800, X Floor, K.R.R.Maaligai,  
Anna Salai, Chennai-600 002.
2. The Secretary,  
Tamil Nadu Electricity Board,  
No.800, X Floor, K.R.R.Maaligai,  
Anna Salai, Chennai-600 002.
3. The Assistant Commissioner of Labour-II,  
Office of the Deputy Commissioner of Labour,  
Labour Welfare Board Building,  
I Floor, D.M.S. Compound,  
Teynampet, Chennai-6.
4. The Secretary  
Government of Tamil Nadu,  
(Labour and Employment),  
Fort St. George,  
Chennai-9.

+1cc to Mr.T.S.Gopalan & Co, Advocate, S.R.No. 67220  
+1cc to Ms.V.Pushpa, Advocate, S.R.No. 67690

W.A.No.75/2018

GMR (CO)  
GN(30/10/2018)