

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.04.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.18861 to 18863 of 2013

and

M.P.Nos.1 to 1 of 2013

W.P.No.18861 of 2013

The Manager (HRD)
Hindustan Photo Films
Manufacturing Company Ltd.,
Indu Nagar,
Ootacamund - 643 005
The Nilgiris ... Petitioner

vs

1.The Regional Labour Commissioner,
(Central),
The Appellate Authority under the
Payment of Gratuity Act, 1972,
No.26, Haddows Road,
Sastri Bhavan,
Chennai - 600 006.

2.The Assistant Labour Commissioner,
(Central),
Controlling Authority under the
Payment of Gratuity Act, 1972,
New No.5, Old No.1-A(II Floor),
Lady Doak College Road,
Chinna Chokkikulam,
Madurai - 625 002.

3.M.Jothilingam
4.J.Halan
5.R.Devadoss
6.M.Rajendran
7.M.Palaniswamy
8.B.Sivanandan
9.V.Raghupathy

10.L.N.Rajendran
11.R.Joseph Antony
12.V.Premkumar
13.T.Bantan
14.M.A.Michael
15.V.Mani
16.J.Stephen Raj
17.G.Shantha
18.R.Krishnan

Rep.by Shri.G.Radhakrishnan,
43, Kailasampillai Street,
Kandal, Finger Post(PO)
Ootacamund - 643 006

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the order dated 10.05.2013 passed by the 1st respondent made in Gratuity Appeals Nos.23 to 38 of 2012 confirming the order dated 31.05.2012 passed by the 2nd respondent in Gratuity Application Nos.41 to 56 of 2011 and quash the same.

W.P.No.18862 of 2013

The Manager (HRD)
Hindustan Photo Films
Manufacturing Company Ltd.,
Indu Nagar,
Ootacamund - 643 005
The Nilgiris

... Petitioner

1.The Regional Labour Commissioner,
(Central),
The Appellate Authority under the
Payment of Gratuity Act, 1972,
No.26, Haddows Road,
Sastri Bhavan,
Chennai - 600 006.

2.The Assistant Labour Commissioner,
(Central),
Controlling Authority under the
Payment of Gratuity Act, 1972,
New No.5, Old No.1-A(II Floor),
Lady Doak College Road,
Chinna Chokkikulam,
Madurai - 625 002.

3.S.Krishnaraj
4.N.H.Krishnan

Rep.by Shri.G.Radhakrishnan,
43, Kailasampillai Street,
Kandal, Finger Post(PO)
Ootacamund - 643 006

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the order dated 10.05.2013 passed by the 1st respondent made in Gratuity Appeals Nos.42 and 43 of 2012 confirming the order dated 31.05.2012 passed by the 2nd respondent in Gratuity Application Nos.58 and 61 of 2011 and quash the same.

W.P.No.18863 of 2013

The Manager (HRD)
Hindustan Photo Films
Manufacturing Company Ltd.,
Indu Nagar,
Ootacamund - 643 005
The Nilgiris

... Petitioner

vs

1.The Regional Labour Commissioner,
(Central),
The Appellate Authority under the
Payment of Gratuity Act, 1972,
No.26, Haddows Road,
Sastri Bhavan,
Chennai - 600 006.

2.The Assistant Labour Commissioner,
(Central),
Controlling Authority under the
Payment of Gratuity Act, 1972,
New No.5, Old No.1-A(II Floor),
Lady Doak College Road,
Chinna Chokkikulam,
Madurai - 625 002.

3.K.Govindan
4.R.Chandran
5.K.Pankajavalli
6.G.R.Narayanan

7.J.R.Bojan
8.K.Radhakrishnan
9.S.Bheeman
10.B.Mani
11.P.Layamary
12.P.Antony Jayapal
13.N.Mani
14.P.Natarajan
15.B.Muthukrishnan
16.P.Kari
17.J.Y.Issac

Rep.by Shri.G.Radhakrishnan,
43, Kailasampillai Street,
Kandal, Finger Post(PO)
Ootacamund - 643 006

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the order dated 10.05.2013 passed by the 1st respondent made in Gratuity Appeals Nos.8 to 22 of 2012 confirming the order dated 30.03.2012 passed by the 2nd respondent in Gratuity Application Nos.26 to 40 of 2011 and quash the same.

For Petitioner

(in all W.Ps) : M/s.Rita Chandrasekar for M/S.Aiyar and
Dolia

For Respondents

(in all W.Ps) : M/s.R.Meenakshi, CGSC for R1 & R2

No Appearance : RR3 to R18 in W.P.No.18861/2013

RR3 & R4 in W.P.No.18862/2013

RR3 to R17 in W.P.No.18863/2013

C O M M O N O R D E R

The order passed by the Regional Labour Commissioner (Central)/1st respondent dated 10.05.2013 in Gratuity Appeal Nos.23 to 38 of 2012, 42 & 43 of 2012, 8 to 22 of 2012 confirming the orders dated 31.05.2012, 30.03.2012 passed by the 2nd respondent in Gratuity Application Nos.41 to 56 of 2011, Nos.58 and 61 of 2011, Nos.26 to 40 of 2011 is under challenge.

2.The writ petitioner is Hindustan Photo Films Manufacturing Company Limited. The writ petitioner company is a Government of India undertaking and is engaged in the business of manufacturing of x-rays and film rolls. The respondents/workmen filed an application under the provisions of the Payment of Gratuity Act, 1972 before the 2nd respondent/The Assistant Labour Commissioner, (Central) for the purpose of settlement of gratuity

amount. Only about 150 ex-employees, who left the services of the writ petitioner company under the Voluntary Retirement Scheme(VRS), formed an association and filed individual gratuity claim applications. The 2nd respondent/competent authority passed an orders on 31.05.2012 and 30.03.2012 and allowed the claim petitions filed by the respondents/workmen.

3.Challenging the said original orders of the competent authority, the writ petitioner management preferred Gratuity Appeal Nos.23 to 38 of 2012, 42 & 43 of 2012, 8 to 22 of 2012 under Section 7(7) of the Payment of Gratuity Act,1972. After adjudication, the appeals preferred by the writ petitioner management were dismissed. Thus, the present writ petitions are filed.

4.The point raised in these writ petitions are that the respondents/workmen were not in continuous service i.e., uninterrupted services. Further, the services rendered with brakes were also taken into consideration for the purpose of reckoning the qualifying services for calculation of the gratuity amount under the Payment of Gratuity Act, 1972. Thus, the writ petitioner claims that the decision arrived by the competent authority in respect of the calculation of the gratuity amount is erroneous.

5.This Court is of an opinion that both the Controlling Authority as well as the Appellate Authority categorically made a finding that the respondents/workmen were the employees of the writ petitioner management and the length of services, which were recorded based on the evidences and documents, are not disputed before the Controlling Authority as well as before the Appellate Authority. The evidences recorded and the findings arrived based on such evidences cannot be interfered with by this Court in these writ petitions under Article 226 of the Constitution of India. The fair and reasonableness and the procedures adopted for arriving the decisions alone can be tested in these writ petitions.

6.The Payment of Gratuity Act, 1972 being a social welfare legislation, the workmen cannot be deprived of the benefit of the provisions of the above said Act. It is a deferred portion of the wages for the services rendered by the workmen and therefore, the employer cannot deny such benefits to the workmen. This apart, certain factual disputes now raised in these writ petitions cannot be adjudicated, in view of the fact that these findings made initially by the Controlling Authority, which was confirmed by the Appellate authority in the appeals. Therefore, this Court cannot interfere with such factual findings made based on the documents and evidences by the competent authority.

7.It is brought to the notice of this Court that the claim of the similarly placed workmen from the writ petitioner management were allowed and those workmen had already received the gratuity amounts as per the award of the Controlling Authority. When the claims of other similarly placed workmen are allowed, there is no reason to interfere with the findings of the order passed by the respondents 1 & 2 in these writ petitions. Accordingly, the order dated 10.05.2013 passed by 1st respondent made in Gratuity Appeal Nos.23 to 38 of 2012, 42 & 43 of 2012, 8 to 22 of 2012 confirming the orders dated 31.05.2012 and 30.03.2012 passed by 2nd respondent for Gratuity Application Nos.41 to 56 , 58, 61 and 26 to 40 of 2011 are confirmed.

8.The respondents/workmen are permitted to withdraw the deposited amount by filing appropriate applications before the authorities concerned.

9.Accordingly, all these writ petitions stand dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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+1cc to M/S.Aiyar & Dolia, Advocate Sr.25596

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W.P.Nos.18861 to 18863 of 2013

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