



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:16.02.2018**

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and**

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD) Nos.98 to 103 of 2018

and

C.M.P. (MD) Nos.514 to 519 of 2017

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The Joint Commissioner/Executive Officer,
Arulmigu Thandayuthapani Swami Thirukovil,
Palani,
Dindigul District.

... Appellant in all cases
Vs.

Shanmugam	...1 st Respondent in W.A. (MD) No.98 of 2018
M.Komala Kamatchi	...1 st Respondent in W.A. (MD) No.99 of 2018
P.Selvaraj	...1 st Respondent in W.A. (MD) No.100 of 2018
C.Arunagiri	...1 st Respondent in W.A. (MD) No.101 of 2018
M.Karuppasamy	...1 st Respondent in W.A. (MD) No.102 of 2018
L.Shankaran	...1 st Respondent in W.A. (MD) No.103 of 2018

2. The District Collector,
Dindigul District.

3. The Controlling Authority,
Under Payment of Gratuity Act/
Assistant Commissioner of Labour,
No.8, Nehruji Nagar, Dindigul.

...2nd and 3rd Respondents in all cases

Prayer:in WA(MD)Nos.98 to 103 of 2018: Writ Appeal are filed under Clause 15 of Letters Patent, against the order passed by this Court dated 13.02.2017 and 28.02.2017 in in W.P.(MD)Nos.155 of 2017 and 3027 to 3031 of 2017 respectively.

Prayer in WP(MD). 155/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondents more particularly the 1st respondent to proceed U/s.3(1) of the Revenue Recovery Act as against the 3rd respondent to collect a sum of Rs.3,93,016/- with simple interest at the rate of 10% from 31.07.2010 till the date of payment as per the Written requisition of the 2nd respondent made in Na.Ka.No. Aa6/3152/2016 dated 18.11.2016 and get a DD in favour of the Assistant Commissioner of Labour, Dindigul from the 3rd respondent and deposit the same before the 2nd respondent.



Prayer in WP(MD). 3027/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondents more particularly the 1st respondent to proceed U/s.3(1) of the Revenue Recovery Act as against the 3rd respondent to collect a sum of Rs.59,946/- with simple interest at the rate of 10% from 30.04.2004 till the date of payment as per the written requisition of the 2nd respondent made in Na.Ka.No.Aa6/1229/2016 dated 20.09.2016 and get a DD in favour of the Assistant Commissioner of Labour, Dindigul from the 3rd respondent and deposit the same before the 2nd respondent.

Prayer in WP(MD). 3028/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondents more particularly the 1st respondent to proceed U/s. 3(1) of the Revenue Recovery Act as against the 3rd respondent to collect a sum of Rs.6,29,775/- with simple interest at the rate of 10% from 31.01.2013 till the date of payment as per the Written requisition of the 2nd respondent made in Na.Ka.No. Aa6/3628/2016 dated 05.01.2017 and get a DD in favour of the Assistant Commissioner of Labour, Dindigul from the 3rd respondent and deposit the same before the 2nd respondent within a time frame.

Prayer in WP(MD). 3029/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondents more particularly the 1st respondent to proceed U/s. 3(1) of the Revenue Recovery Act as against the 3rd respondent to collect a sum of Rs.3,23,031/- with simple interest at the rate of 10% from 30.06.2011 till the date of payment as per the Written requisition of the 2nd respondent made in Na.Ka.No. Aa6/1229/2016 dated 30.09.2016 and get a DD in favour of the Assistant Commissioner of Labour, Dindigul from the 3rd respondent and deposit the same before the 2nd respondent within a time frame.

Prayer in WP(MD). 3030/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondents more particularly the 1st respondent to proceed U/s.3(1) of the Revenue Recovery Act as against the 3rd respondent to collect a sum of Rs.2,86,043/- with simple interest at the rate of 10% from 31.03.2012 till the date of payment as per the written requisition of the 2nd respondent made in Na.Ka.No.Aa6/6993/2016 dated 24.01.2017 and get a DD in



favour of the Assistant Commissioner of Labour, Dindigul from the 3rd respondent and deposit the same before the 2nd respondent.

Prayer in WP(MD). 3031/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondents more particularly the 1st respondent to proceed U/s. 3(1) of the Revenue Recovery Act as against the 3rd respondent to collect a sum of Rs.1,62,225/- with simple interest at the rate of 10% from 31.05.2001 till the date of payment as per the Written requisition of the 2nd respondent made in Na.Ka.No. Aa6/1229/2016 dated 20.09.2016 and get a DD in favour of the Assistant Commissioner of Labour, Dindigul from the 3rd respondent and deposit the same before the 2nd respondent within a time frame.

For Appellant : Mr.K.Govindarajan
For R1 : Mr.D.Venkatesh
For R2 and R3 : Mr.V.R.Shanmuganathan
Special Government Pleader
(in all cases)

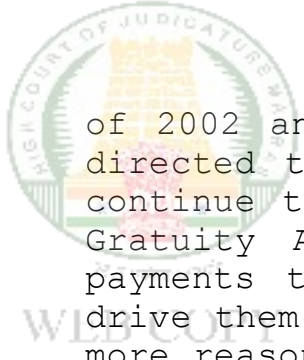
C O M M O N J U D G M E N T

(Judgment of the Court was delivered by **T.S.SIVAGNANAM,J.**)

Heard Mr.K.Govindarajan, learned counsel for the appellant, Mr.D.Venkatesh, learned counsel for the first respondent and Mr.V.R.Shanmuganathan, learned Special Government Pleader for the respondents 2 and 3.

2. These appeals are by the Joint Commissioner and Executive Officer of Arulmigu Dhandayuthapani Swamy Thirukovil, Palani, directed against the orders passed by the Writ Court in Writ Petitions filed by the respondents to direct the District Collector, Dindigul, to initiate action under the Revenue Recovery Act against the appellant herein for recovery of the gratuity amount as quantified by the Controlling Authority under the Payment of Gratuity Act, the third respondent herein.

3. The writ petitions were allowed by the impugned orders, which are questioned in these appeals. The issue relating to the entitlement for payment of gratuity for temple employees, has been settled in earlier decisions. This would be sufficient to dismiss the writ appeals. It is relevant to note that the Hon'ble Supreme Court, in Special Leave Petition in **C.C.Nos.6008 and 6009 of 2013**, by order dated 03.05.2013, while noting that the issue as to whether a charitable trust is an industry has been referred to the larger Bench of the Hon'ble Supreme Court in Civil Appeal No.897



of 2002 and other connected matters reported in **(2005) 5 SCC 1**, directed the appellants, which includes the appellant herein, to continue to make payments to the employees as per the Payment of Gratuity Act, 1972 and further directed that they shall make payments to the employees as and when they retire and will not drive them to go to the Payment of Gratuity Authority. This is one more reason to hold that the appellants have not made out any case for interference of the order passed by the writ Court. Thus, for the above reasons, these Writ Appeals fail and they are dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

4. It is submitted that four of the writ petitioners have already received the payment by withdrawing the same deposited before the third respondent to the credit of respective cases filed by them and one of the writ petitioners viz., Mr.P.Selvaraj (the first respondent in Writ Appeal No. 100 of 2018 is yet to receive the payment.

5. In the light of the above reasons, the appellant is directed to directly settle the gratuity amount to the said respondent/writ petitioner within a period of three weeks from the date of receipt of a copy of this Judgment.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Dindigul District.
2. The Controlling Authority,
Under Payment of Gratuity Act/
Assistant Commissioner of Labour,
No.8, Nehruji Nagar, Dindigul.

+1cc to Spl.Government Pleader Sr.No.49525
+1cc to Mr.D.Venkatesh, Advocate Sr.No.49495
+1cc to Mr.K.Govindarajan, Advocate Sr.No.49416

LS/AKV

VB/SV/MMS/SAR3/12/03/2018/4P/6C