



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 12.12.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) Nos.5794; 6021; 6042; 6107; 6166 & 6291 of 2018
and
WMP (MD) Nos.5924; 5890; 5918; 5951; 6012 & 6125 of 2018

- | | |
|-------------------|---|
| 1.T.Rajarajan | ..Petitioner in W.P.(MD)No.5794 of 2018 |
| 2.K.Ramachandran | ..Petitioner in W.P.(MD)No.6021 of 2018 |
| 3.K.Rajagopalan | ..Petitioner in W.P.(MD)No.6042 of 2018 |
| 4.K.Muthuvel | ..Petitioner in W.P.(MD)No.6107 of 2018 |
| 5.A.Dharmalingam | ..Petitioner in W.P.(MD)No.6166 of 2018 |
| 6.S.Kaliyaperumal | ..Petitioner in W.P.(MD)No.6291 of 2018 |

Vs.

- 1.The Appellate Authority/
Joint Commissioner of Labour,
Trichy.
- 2.The Authority appointed under the Payment
of Gratuity Act/Assistant Commissioner of Labour,
Trichy.
- 3.The Management,
Thanjavur Central Co-operative Bank Ltd.,
West main Street, Thanjavur.
..Respondents in all the writ petitions

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records relating to the order passed by the first respondent in P.G.A.No.87/2016; 82/2016; 83/2016; 85/2016; 86/2016 and 81/2016, dated 29.11.2017, respectively and quash the same, restore the second respondent's order.



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For Petitioner in
all the Writ petitions :Mr.G.M.Xavier

For R1 & R2 in
all the W.Ps. :Mr.K.Mu.Muthu
Government Advocate

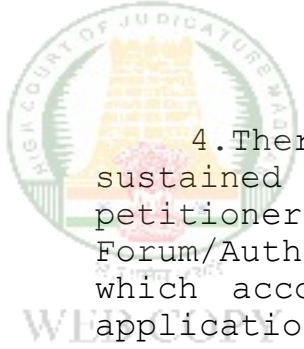
For R3 in all the
Writ Petitions :Mr.D.Shanmugaraja Sethupathi

COMMON ORDER

The writ petitioners herein are the employees of the third respondent Co-operative Bank. Before joining the bank service, they had been adhoc employees of certain primary societies. After they reached the age of superannuation, the bank settled the gratuity benefits payable to them under the scheme applicable to them. The writ petitioners accepted the amount paid by the bank and made a further demand that the gratuity should be paid even in respect of the period, when they were in the service of the primary society. Since the management declined to consider the said demand, the writ petitioners moved the controlling authority under the Payment of Gratuity Act. Their applications were allowed. Challenging the same, the management moved the Appellate Authority. The Appellate Authority held that the statutory authority constituted under the Payment of Gratuity Act will not have the jurisdiction in such matters. Thus, the appeals filed by the management got allowed. Challenging the same, the employees are before this Court.

2.It is not in dispute that the writ petitioners are not trying to enforce the statutory liability of the management to settle the gratuity dues of the employees. On the other hand, what is sought to be enforced are the terms of a settlement entered into under Section 12(3) of the Industrial Disputes Act. Of course, as rightly pointed out by the learned counsel appearing for the employees, the employer can always confer better terms of gratuity under any award or agreement. The question is whether the controlling authority was right in entertaining the applications filed by the petitioners herein.

3.The issue is no longer *res integra*. The learned counsel for the management has filed number of case laws in his compilation set. One is the case reported in **2012 (IV) LLJ 625 [VENUGOPAL v. JOINT COMMISSIONER OF LABOUR]**, wherein it was held that the jurisdiction of the controlling authority would be attracted only if there is statutory liability to pay the amount of gratuity. In this case, admittedly, the writ petitioners are not trying to enforce the statutory liability of the employer to pay the amount of gratuity but the better terms conferred on them by way of



4. Therefore, the orders impugned in these writ petitions are sustained and the writ petitions stand dismissed. The writ petitioners are given liberty to move before the competent Forum/Authority/Court for payment of the balance gratuity amount, which according to the petitioners is payable to them. If such application is filed, the Authority/Forum/Court concerned shall dispose of the same on merits and in accordance with law within a period of ten weeks from the date of receipt of a copy of this order, after issuing notice to the management. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar(AD I)

/True Copy/

Sub Assistant Registrar(CS I)

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To

1.The Appellate Authority/

Joint Commissioner of Labour,
Trichy.

2.The Authority appointed under the Payment

of Gratuity Act/Assistant Commissioner of Labour,
Trichy.

3.The Management,

Thanjavur Central Co-operative Bank Ltd.,
West main Street, Thanjavur.

1CC TO MR. D. SHANMUGARAJA SETHUPATHI, ADVOCATE SR 100154

1CC TO THE SPL GOVT PLEADER SR 1000079

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12.12.2018