



WEB COPY

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.61 to 63 of 2017

and

C.M.P.(MD)Nos.544 to 548 of 2017

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

... Appellant in all appeals

Vs.

R.Govindaraj ...1st respondent in W.A.(MD)No.61 of 2017

S.Pachaimuthu ...1st respondent in W.A.(MD)No.62 of 2017

S.Madanagopal ...1st respondent in W.A.(MD)No.63 of 2017

2.The Commissioner,
Hindu Religious and Charitable-
Endowment Administration,
Nungambakkam High Road,
Chennai.

... 2nd Respondent in all

appeals

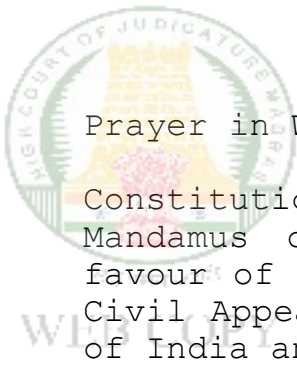
Prayer: Writ Appeals are filed under Clause 15 of Letter Patent, against the order passed by this Court, dated 30.06.2016 in W.P.(MD) Nos.19232 to 19234 of 2014.

Prayer in WP(MD). 19232/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to pay gratuity directly in favour of the petitioner as per the order dated 01.08.2014 passed in Civil Appeal Nos.4507 - 4508 of 2013 by the Honourable Supreme Court of India and pass appropriate orders deem fit.

Prayer in WP(MD). 19233/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to pay gratuity directly in favour of the petitioner as per the order dated 1.8.2014 passed in Civil Appeal Nos.4507 -4508 of 2013 by the Honourable Supreme Court of India and pass appropriate orders deem fit.



Prayer in WP(MD). 19234/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to pay gratuity directly in favour of the petitioner as per the order dated 1.8.2014 passed in Civil Appeal Nos.4507 -4508 of 2013 by the Honourable Supreme Court of India and pass appropriate orders deem fit.

For Appellant	:	Mr.K.Govindarajan
For R1	:	Mr.T.Srinivasa Ragavan
For R2	:	Mr.V.R.Shanmuganathan
		Special Government Pleader

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

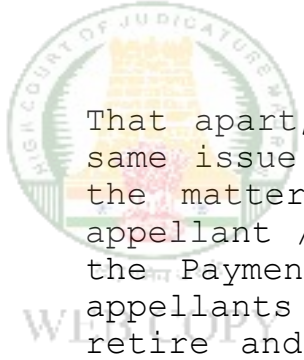
(Judgment of the Court was delivered by T.S.SIVAGNANAM,J.)

Heard Mr.K.Govindarajan, learned counsel for the appellant, Mr.T.Srinivasa Ragavan, learned counsel for the first respondent and Mr.V.R.Shanmuganathan, learned Special Government Pleader for the second respondent/the Commissioner of Hindu Religious and Charitable Endowment Administration.

2. These appeals are directed against the order in W.P.(MD) Nos.19232 to 19234 of 2014, dated 30.06.2016. The writ petitions were filed by the first respondent herein praying for issuance of a direction to the appellant as well as the second respondent, the Commissioner of Hindu Religious and Charitable Endowment Administration, to pay gratuity directly to them, as per the order passed by the Hon'ble Supreme Court of India in Civil Appeal Nos.4507 and 4508 of 2013.

3. The writ petitions were allowed by the common order dated 30.06.2016, by taking note of the earlier order in the case of *E.Gopal Vs. P. Dhanapal and others*, dated 01.08.2014, reported in 2013 (3) CTC 689. There can be no doubt to the fact and the law and the subject has been settled in favour of the employees and it has been held that the temple employees are entitled for payment of gratuity under the provisions of Payment of Gratuity Act.

4. The learned counsel for the appellant as well as the learned Special Government Pleader appearing for the Commissioner would contend that the issue as to whether such cases like the appellant are an industry has been referred to the Larger Bench of the Honourable Supreme Court and therefore, the employees have to await the verdict of the reference Court. The settled legal position is that merely because the reference is pending before a Court on a legal issue, that would not in any manner take away the effect of the judgment rendered by the Benches, which dealt with similar matters. Therefore, until the reference is answered one way or other, the decisions, which were rendered will continue to operate.



That apart, the Hon'ble Supreme Court of India considered the very same issue in S.L.P.No.6008 and 6009 of 2013 and while noting that the matter has been referred to the Larger Bench, directed the appellant / temple to continue to make payment to employees, as per the Payment of Gratuity Act, 1972 and further observed that the appellants will make payments to the employees as and when they retire and will not drive them to go to the Payment of Gratuity Authority. The decision of the Hon'ble Supreme Court of India, dated 03.05.2013, is an answer to one of the arguments put forth by the learned counsel for the appellant stating that the respondents / writ petitioners did not approach the controlling authority under the Payment of Gratuity Act, but straight away filed the writ petitions seeking for a writ of Mandamus. As pointed out earlier, the Hon'ble Supreme Court of India has made it clear that as and when the temple employee retired, they will be entitled to gratuity and they should not be driven to the Payment of Gratuity Authority.

5. Thus, for the above reasons, no ground has been made out to interfere with the order passed by the writ Court. Accordingly, the writ appeals fail and they are dismissed.

6. The appellant and the second respondent are directed to quantify the gratuity payable to each of the respondents/writ petitioners and effect payment within a period of eight weeks from the date of receipt of a copy of this Judgement. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CSIII)

/True Copy/

Sub-Assistant Registrar

To

The Commissioner,
Hindu Religious and Charitable-
Endowment Administration,
Nungambakkam High Road,
Chennai.

ls/akv
RL/2C/3P/SV/MMS/SAR2/26/3/2018

W.A. (MD) Nos.61 to 63 of 2017