



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.02.2018

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WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHANW.P. (MD) Nos. 10004 to 10016 of 2017
and

W.M.P. (MD) Nos. 7660 to 7672 of 2017

The Managing Director,
The Thanjavur District Central
Co-operative Bank Limited,
Thanjavur.

.. Petitioner
(in All Writ petitioners)

Vs.

R. Muniasamy	... 1 st Respondent in WP (MD) No. 10004/2017
P. Desingu	... 1 st Respondent in WP (MD) No. 10005/2017
T. Seshadri	... 1 st Respondent in WP (MD) No. 10006/2017
M. Rengasamy	... 1 st Respondent in WP (MD) No. 10007/2017
S. Muthukumaran	... 1 st Respondent in WP (MD) No. 10008/2017
P. Marimuthu	... 1 st Respondent in WP (MD) No. 10009/2017
M. Balasubramanian	... 1 st Respondent in WP (MD) No. 10010/2017
S. Ganesan	... 1 st Respondent in WP (MD) No. 10011/2017
K. Lakshmanan	... 1 st Respondent in WP (MD) No. 10012/2017
R. Saravanan	... 1 st Respondent in WP (MD) No. 10013/2017
C. Pasupathi	... 1 st Respondent in WP (MD) No. 10014/2017
G. Veeraiyan	... 1 st Respondent in WP (MD) No. 10015/2017
R. Subbaiyan	... 1 st Respondent in WP (MD) No. 10016/2017

2. The Assistant Commissioner of Labour (Gratuity),
O/o. The Deputy Commissioner of Labour,

<https://hcservices.ecourts.gov.in/hcservices/>
Hiruchirappalli - 20.

... 2nd Respondent in All Writ Petitioners

**COMMON PRAYER:**

These Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari to call for the records pertaining to the impugned orders passed by the second respondent vide P.G.Nos.282/2016, 290/2016, 286/2016, 325/2016, 289/2016, 287/2016, 292/2016, 306/2016, 291/2016, 288/2016, 294/2016, 314/2016 and 328/2016 respectively dated 16.12.2016 and quash the same.

For Petitioner : Mr.D.Shanmugaraja Sethupathi
in all writ petitions

For Respondent No.1 : Ms.D.Geetha
in all writ petitions for Mr.G.M.Xavier

For Respondent No.2 : Mr.Gunaseelan Muthiah
in all writ petitions Additional Government Pleader

C O M M O N O R D E R

Heard the learned counsel appearing on either side.

2. The orders passed by the Controlling Authority/2nd respondent under the provisions contained in the Payment of Gratuity Act, 1972, in favour of the private respondents in these writ petitions are under challenge, at the instance of the employer, namely, the Thanjavur District Centre Co-operative Bank Limited.

3. The private respondents in these writ petitions were appointed in various Primary Agricultural Co-operative Societies by an Adhoc Committee and they joined duty in the respective societies. Thereafter, they got appointed in the writ petitioners' Bank. They reached the age of superannuation and retired from service. They were all paid certain gratuity amounts. Contending that they should be paid more, the private respondents herein lodged applications before the Controlling Authority/2nd respondent.

4. It is not in dispute that the petitioner Bank filed its counters, opposing the prayer made by the employees claiming more gratuity. The dispute between the parties lay in a very narrow campus. According to the retired employees, the service put in by them in the Primary Agricultural Co-operative Societies prior to their formal appointments in the petitioner Bank should also be taken into account. But, the case of the Bank is that the period put in by the private respondents herein prior to their appointment in the petitioner's Bank cannot be considered. Eventhough, such a specific defence was advanced by the writ petitioner, the



Controlling Authority/2nd respondent, without advertting to the same by the orders impugned in these writ petitions allowed the claim of the private respondents herein.

5. It is for this reason that eventhough an appeal remedy is available in terms of the Statute to the writ petitioners in all these writ petitions, bypassing the same, these writ petitions have been filed.

6. After hearing the learned counsel on either side, this Court is of the view that in these cases, considering the nature of the orders that is to be passed, this Court need not insist on exhaustion of the alternative remedy of appeal. If the authority had dealt with all the contentions of the writ petitioner and passed orders on merits, then this Court would have certainly relegated the petitioner to avail the appeal remedy. This Court went through the pleadings enclosed in the typeset of papers. The contentions now projected by the writ petitioner have been very much put forth in their counters also.

7. The learned counsel for the petitioner submitted that before the Controlling Authority/2nd respondent, they did press all these points. But the authority failed to consider the said contentions and choose to allow the claim of the employees virtually by a non-speaking order. Whether an order is speaking or non-speaking does not turn on the number of pages. But, an order will be considered as a speaking order, only if it deals with the contentions of the opposite party and assigns proper reasons for passing the order in question. Since the above said principle was not followed in these cases, this Court is of the view that the orders impugned in these writ petitions have to be quashed.

8. Accordingly, the orders impugned in these writ petitions are quashed and all the writ petitions are allowed and the matter is remitted to the file of the Controlling Authority/2nd respondent for fresh disposal in accordance with law. It is made clear that the parties are entitled to adduce further evidence in respect of their respective claims/defence. The Controlling Authority/2nd respondent, under the above said Act, shall pass orders afresh in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar



To

The Assistant Commissioner of Labour (Gratuity),
O/o. The Deputy Commissioner of Labour,
Tiruchirappalli- 20.

+13CC to Mr.G.M.Xavier Advocate in SR.Nos.51266,51265,51264,
51263,51261,51260,51259,51258,51257,51256,51255,51252,51254.

+13CC to Mr.D.Shanmugaraja Sethupathi Advocate in SR.Nos.51051,
51052,51053,51054,51055,51056,51057,51058,51059,51060,51061
51062,51063.

+1CC to Special Government Pleader in SR.No.50912.

PJL

DS/SV-MMS/SAR-1 :20.06.2018: 4P/29C

W.P. (MD) Nos.10004 to 10016 of 2017
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