



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 06.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

W.P(MD)Nos.16192 to 16201 of 2017

and

WMP(MD)Nos.12869 to 12878 of 2017

THE MANAGING DIRECTOR,
THE THANJAVUR DISTRICT CENTRAL

CO OPERATIVE BANK LIMITED,

THANJAVUR.

... Petitioner in WP(MD).16192 to 16201/2017

- Vs. -

1 R.UMA SHANKAR

2 THE ASSISTANT COMMISSIONER OF LABOUR (GRATUITY),

O/O. DEPUTY COMMISSIONER OF LABOUR,

TIRUCHIRAPPALLI - 20. ... Respondents in WP(MD). 16192/ 2017

1 S.MANILAL GANDHI

2 THE ASSISTANT COMMISSIONER OF LABOUR (GRATUITY),

O/O. DEPUTY COMMISSIONER OF LABOUR,

TIRUCHIRAPPALLI - 20. ... Respondents in WP(MD). 16193/ 2017

1 S.RAMASAMY

2 THE ASSISTANT COMMISSIONER OF LABOUR (GRATUITY),

O/O. DEPUTY COMMISSIONER OF LABOUR,

TIRUCHIRAPPALLI - 20. ... Respondents in WP(MD). 16194/ 2017

1 M.RAMALINGAM

2 THE ASSISTANT COMMISSIONER OF LABOUR (GRATUITY),

O/O. DEPUTY COMMISSIONER OF LABOUR,

TIRUCHIRAPPALLI - 20. ... Respondents in WP(MD). 16195/ 2017

1 V.CHIDAMBARAM

2 THE ASSISTANT COMMISSIONER OF LABOUR (GRATUITY),

O/O. DEPUTY COMMISSIONER OF LABOUR,

TIRUCHIRAPPALLI - 20. ... Respondents in WP(MD). 16196/ 2017

1 M.DURASAMY

2 THE ASSISTANT COMMISSIONER OF LABOUR (GRATUITY),

O/O. DEPUTY COMMISSIONER OF LABOUR,

TIRUCHIRAPPALLI - 20. ... Respondents in WP(MD). 16197/ 2017

1 S.RAMAKRISHNAN

2 THE ASSISTANT COMMISSIONER OF LABOUR (GRATUITY),

O/O. DEPUTY COMMISSIONER OF LABOUR,

TIRUCHIRAPPALLI - 20. ... Respondents in WP(MD). 16198/ 2017



1 T. PAULRAJ
2 THE ASSISTANT COMMISSIONER OF LABOUR (GRATUITY),
O/O. DEPUTY COMMISSIONER OF LABOUR,
TIRUCHIRAPPALLI - 20. ... Respondents in WP(MD). 16199/ 2017

1 T. KANAGASABAI
2 THE ASSISTANT COMMISSIONER OF LABOUR (GRATUITY),
O/O. DEPUTY COMMISSIONER OF LABOUR,
TIRUCHIRAPPALLI - 20. ... Respondents in WP(MD). 16200/ 2017

1 A. PALANIVEL
2 THE ASSISTANT COMMISSIONER OF LABOUR (GRATUITY),
O/O. DEPUTY COMMISSIONER OF LABOUR,
TIRUCHIRAPPALLI - 20. ... Respondents in WP(MD). 16201/ 2017

Prayer : Writ Petitions 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 order passed by the second respondent vide P.G.No.285, 309, 333, 310, 298, 326, 284, 313, 295, 473 of 2016 respectively dated 16.12.2016 and quash the same.

For Petitioner : Mr.D.Shanmugaraja Sethupathi
For Respondents : Mrs.S.Srimathy,
Special Government Pleader for R2
Mr.G.M.Xavier for R1

COMMON ORDER

The Managing Director, Thanjavur District Central Cooperative Bank Limited is the petitioner in all these writ petitions. The petitioner bank is registered under the Tamil Nadu Cooperative Societies Act, 1983. What is assailed is the orders passed by the controlling authority under the Payment of Gratuity Act, 1972. The private respondents in these writ petitions were originally appointed in various Primary Agricultural Cooperative Societies by the Ad-Hoc Committees and then joined duty in the respective societies. They were later appointed in the petitioner bank. They had all reached the age of superannuation and were paid their gratuity dues.

2. Subsequently, they filed applications before the controlling authority contending that the period of service put in by them in the respective Primary Agricultural Cooperative Societies before joining in the petitioner bank should also be taken into account and gratuity should be paid for that period of service. The controlling authority allowed the applications as prayed for and issued directions directing the petitioner bank to pay gratuity for the aforesaid period also. The same is assailed in these writ petitions.



3.The learned counsel appearing for the individual applicants/private respondents submitted that the writ petitions are liable to be dismissed on the ground of non exhaustion of the alternative remedy of appeal. He would point out that as against the orders passed by the controlling authority, the petitioner bank could very well have move the appellate authority.

4.The learned counsel appearing for the petitioner would submit that since the order impugned in these writ petitions are patently lacking of jurisdiction, this Court would be justified in entertaining the writ petitions. The facts are not in dispute. The claim in all these writ petitions relates to the period of service put in by the writ petitioners in the respective Primary Agricultural Co-operative Societies prior to their joining the petitioner bank.

5.The petitioner bank had in its counter pointed out that as per G.O.Ms.No.331 dated 05.12.1988, it had been clearly mentioned that the Ad-Hoc employees of Primary Agricultural Cooperative Societies are entitled to receive all the service benefits such as Pay, Other Allowances, Gratuity, Leave, Provident Fund and etc., only from the date of their joining duty in the services of the Central Cooperative Societies. Even though such a specific objection has been taken in the counter, the controlling authority did not deal with the same. The claim of the private respondents herein are clearly not maintainable. The petitioner bank is liable to pay gratuity to the employees only for the period of service put in by them in the petitioner bank. The petitioner cannot be eligible for gratuity even for the period of service put in by the private respondents herein in the Primary Agricultural Cooperative Societies.

6.Admittedly, the private respondents herein have not questioned Clause 11 of the aforesaid G.O.Ms.No.331, dated 05.12.1988. Therefore, they are clearly estopped from raising a claim for gratuity contrary to the aforesaid provisions. The controlling authority ought to have rejected the claims made by the private respondents herein. The orders impugned in these writ petitions are quashed. All these writ petitions stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/



To

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

+1cc to M/S.D.Shanmugaraja Sethupathi, Advocate SR.No. 46741

W.P (MD) Nos.16192 to
16201 of 2017
and
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12878 of 2017
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JM/SV MMS/SAR 1/28.02.2018/4P/3C