

**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) No.23064 of 2016****and****WMP (MD) No.16521 of 2016**

M/s.Savaria Pitchai,
397/12-B, Lions Town,
Thoothukudi-628 001.

... Petitioner

Vs.

1. The Appellate Authority under the
Payment of Gratuity Act,
(Regional Labour Commissioner (central),
No.26, Hadows Road, Sastri Bhavan,
Chennai-600 006.
2. The Assistant Labour Commissioner(central),
5.Lady Doak College Road,
Chinnachockikulam, Madurai-625 002.
3. V.Ramesh
4. Territory Manager,
Bharat Petroleum Corporation Ltd,
Thoothukudi-628 008.
5. S.Ravichandran
6. St.Antony's Agencies,
20/19, Roach Colony,
Thoothukudi-628 001.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the first respondent relating to Appeal No.4/16, quash the order dated 20.10.2016 passed therein.

For Petitioner : Mr.S.Seenivasagam

For Respondents : Mr.K.Saravanan
Government Advocate for R1&R2
Ms.D.Geetha for R3
R6-No appearance

**ORDER**

The third respondent herein was a former employee with the petitioner. The third respondent took out an application before the controlling authority under the Payment of Gratuity Act, 1972 for payment of gratuity dues. The third respondent had arrayed not only the writ petitioner but also the principal employer and others as party respondents in the gratuity application.

2. The petitioner herein took out an application raising certain preliminary issues as to jurisdiction. The same was decided against the writ petitioner. Aggrieved by the same, the writ petitioner filed an appeal before the appellate authority. The appellate authority remanded the matter to the file of the original authority/controlling authority.

3. But, strangely after such remand, the controlling authority had taken a stand that the appellate authority could not have remanded the matter to him. The file was sent back to the appellate authority. By then, there has been a new incumbent had taken over as appellate authority. Even more strangely, the new incumbent official had chosen to review the earlier order passed and posted the matter for hearing the case again on merits. It is this that is questioned in this writ petition.

4. It is obvious that the approach adopted by the controlling authority as well as the appellate authority after remand are clearly not sustainable in law. When once an order of remand was passed by the appellate authority, it was the duty of the controlling authority to take the matter afresh and decide the issue in accordance with law as directed by the appellate authority. Likewise, it was not open to the appellate authority to review the matter.

5. In these circumstances, this Court has to necessarily quash the order impugned in this writ petition. Accordingly, it is quashed. This Court directs the controlling authority to adjudicate on the preliminary issue raised by the writ petitioner herein and pass orders after hearing both parties. Since the application was filed way back in the year 2012, the controlling authority shall decide the preliminary issue on or before 31.03.2018.

6. With this direction, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

/True Copy/



To

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Chennai-600 006.

2.The Assistant Labour Commissioner(central),
5.Lady Doak College Road,
Chinnachockikulam, Madurai-625 002.

+ 1 cc TO Mr.S.Seenivasagam , Advocate in SR No. 46731
+ 1 cc TO Ms.D.Geetha , Advocate in SR No. 46674
+ 1 cc The Special Government Pleader in SR No. 47291

Skm

AE/MR/SAR1/16.02.2018/3P/6C

W.P (MD) No.23064 of 2016
and
WMP (MD) No.16521 of 2016
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