



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.02.2018

CORAM :

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P. (MD) Nos.7285 of 2016

and

W.M.P. (MD) Nos.6149 and 6150 of 2016

The Commissioner,  
Karungulam Panchayat Union,  
Thoothukudi District.

... Petitioner

Vs.

- 1.The Appellate Authority  
under the payment of Gratuity Act,  
Joint Commissioner of Labour,  
Madurai.
- 2.The Assistant Commissioner of Labour,  
Controlling Authority under Payment  
of Gratuity Act,  
Tirunelveli.
- 3.Navamani

... Respondents

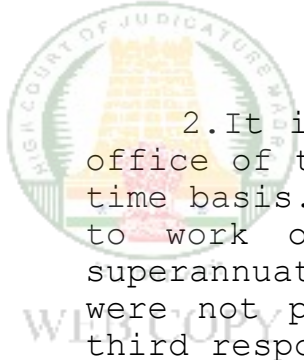
Prayer: This writ petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records relating to Case No.Pa.Ko.M(E) 79/2014 order dated 18.08.2015 on the file of Joint Commissioner of Labour/Appellate Authority, Madurai confirming the order passed in Case No.PG 63/2012 dated 16.12.2013 on the file of the Assistant Commissioner, Tirunelveli and quash the same as null and void.

For petitioner : Mr.C.Selvaraj

For Respondents : Mr.M.Jeyakumar, AGP for RR1 & 2  
Mrs.M.Maria Vinola for  
M/s.D.Geetha for R3

ORDER

The petitioner questions the impugned orders passed by the authorities under the Payment of Gratuity Act, 1972 principally on the ground that the third respondent is not possessing the requisite years of qualifying service.



2.It is submitted that the third respondent was working in the office of the Karungulam Panchayat Union from 1968 till 1977 on full time basis. On account of want of sanctioned post, he was permitted to work only on a part time basis. He reached the age of superannuation in the year 2002. It appears that the gratuity dues were not paid to the said employee on the misconception that the third respondent did not have the minimum period of qualifying years of service. But, as per section 4 of Payment of Gratuity Act, the employee should have only a minimum period of continuous service of not less than five years. In this case, he had put more than the said period. Therefore, the authorities rightly entertained the application submitted by the third respondent. It is also seen that the quantum of gratuity allowed is only a sum of Rs.35,876/-.

3.The learned counsel for the petitioner submitted that the third respondent is now no more. If that be so, it is open to the legal representative of the third respondent to withdraw the said amount by filing application before the concerned authority.

4.This writ petition stands dismissed with the above observation. No costs. Consequently, connected miscellaneous petitions are also dismissed.

*Sd/-*

*Assistant Registrar(CSIII)*

*/True Copy/*

*Sub-Assistant Registrar*

To

- 1.The Appellate Authority  
under the payment of Gratuity Act,  
Joint Commissioner of Labour,  
Madurai.
- 2.The Assistant Commissioner of Labour,  
Controlling Authority under Payment  
of Gratuity Act,  
Tirunelveli.

+One cc to The Special Government Pleader, SR.No.46880  
+One cc to Mr.D.Geetha, Advocate, SR.No.46673  
+One cc to Mr.C.Selvaraj, Advocate , SR.No.46780

*Arul*

*RL/6C/2P/SV/MMS/SAR4/15/2/2018*

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and

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