

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION Nos.3378 AND 3409 OF 2002

COMMON ORDER:

W.P. No.3378 of 2002 is filed seeking to issue a writ of Certiorari calling for the records relating to P.G. No.5/2000 dated 16.07.2001 as modified in P.G. Appeal No. 3/2001 dated 08.12.2001 and quash the same. W.P. No.3409 of 2002 is filed seeking to issue a writ of Certiorari calling for the records relating to P.G. No.4/2000 dated 16.07.2001 as modified in P.G. Appeal No.5/2001 dated 08.12.2001 and quash the same.

2. Heard Sri T.S. Ananad, learned counsel for the petitioners and the learned Government Pleader for Labour and Sri B. Thimothi learned counsel for the 3rd respondent in both the writ petitions.

3. In these two writ petitions the orders passed by the original Authority under Payment of Gratuity Act, 1972 (for short 'the Act') and the Appellate Authority under the Act, are under challenge.

4. As the issue raised in these two writ petitions is one and the same, both the writ petitions are disposed of by way of a common order. For convenience, the facts in W.P. No.3409 of 2002 are discussed herein.

5. It has been contended by the petitioner that the 3rd respondent was employed as a Beedi worker in the petitioner establishment and that both the authorities under the Act failed to appreciate that the

petitioner had established its business only from 1982 and both the authorities have directed payment of Gratuity by treating the first entry of the 3rd respondent as 1982 and erroneously passed orders to pay Rs.10,374/- to the 3rd respondent towards gratuity.

6. The counsel appearing for the respondent - workman had contended that both the authorities had rightly taken into consideration the date of appointment of the workman based upon the documents marked before the authorities and based upon the evidence lead by the respondents and the authorities under the Act had rightly passed orders and therefore, no interference is called for.

7. This Court after considering the rival submissions made by the parties, is of the view that the authorities under the Act had rightly passed orders in favour of the workman. In fact, the first authority under the Act had directed to calculate the wages from 1982 and quantified an amount of Rs.11,340/- to be paid to the workman and the appellate Authority, by agreeing to some of the contentions raised by the petitioner, reduced the amount of gratuity payable to the respondent - workman to Rs.10,374/-.

8. As the contentions raised by the petitioner were rightly taken into account by the Appellate Authority and the Appellate Authority has rightly modified the original Authority's order and directed that an amount of Rs.10,374/- is to be paid to the 3rd respondent workman, there are no illegalities as pointed out by the petitioner in the orders

passed by the authority under Payment of Gratuity Act. Hence, the writ petitions are liable to be dismissed as there are no merits in the writ petitions.

9. Accordingly, both the Writ Petitions are dismissed. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

August 10, 2018

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