

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.09.2019

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10876 of 2009

and

M.P.No.1 of 2009

The Manager (HRD)  
Hindustan Photo Films  
Manufacture Company Ltd.,  
Ootacamund - 643 005  
The Nilgiris

..Petitioner

vs

- 1.The Regional Labour Commissioner,  
(Central)  
The Appellate Authority under the  
Payment of Gratuity Act, 1972  
No.26, Haddows Road,  
Sastri Bhavan,  
Chennai - 600 006
- 2.The Assistant Labour Commissioner,  
(Central)  
Controlling Authority under the  
Payment of Gratuity Act, 1972  
No.26, Haddows Road,  
Sastri Bhavan,  
Chennai - 600 006

- 3.T.C.Krishnamurthy
- 4.A.Malli
- 5.P.Sankarasubramony
- 6.T.S.Santhamurthy
- 7.B.Muralidharan
- 8.K.B.Sinthamani
- 9.K.P.Nanjan
- 10.R.Marudamuthu
- 11.H.Thimman
- 12.A.Venkataraman
- 13.A.Shankaramurthy
- 14.K.Ragunatha Rao
- 15.Basheer Ahmed
- 16.R.Jayashree

17.S.Krishnamurthy1  
18.K.M.Bellie  
19.P.L.Subban  
20.A.N.Arjunan  
21.A.S.Mani  
22.S.Devarajan  
23.R.S.Mani  
24.K.Ramamurthy  
25.R.Subbian  
26.M.Krishnarajendran  
27.R.Manavalachand  
28.J.Varadharajan  
29.K.C.Lingaraj  
30.N.Ramalingam  
31.H.Krishnamoorthy  
32.S.Mahalingam  
33.A.Balasubramaniam  
34.G.Jayaseelan  
35.B.N.Devaraj  
36.K.T.Perumalsamy

Petitioners 3 to 36  
C/o.G.Radhakrishnan,  
43, Kailasampillai Street, Kandal  
Finger Post,  
Ootacamund - 643 006.

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the order dated 28.05.2008 passed by the 2<sup>nd</sup> respondent in Gratuity Application Nos.196,202,205,208-209,210-212,219-220,222,224-226,231,235-243,245-248,251-256 of 2007 and confirmed by the 1<sup>st</sup> respondent in G.A.Nos.47 to 80 of 2008 dated 29.04.2009 and quash the same.

For Petitioner : M/s.Rita Chandrasekaran

For Respondents : Mr.T.V.Krishnamachari for R1 & R2  
No appearance for R3 to R36

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O R D E R

The order dated 28.05.2008 passed by the 2<sup>nd</sup> respondent in Gratuity Application Nos.196,202,205,208-209,210-212,219-220,222,224-226,231,235-243,245-248,251-256 of 2007 and confirmed by the 1<sup>st</sup> respondent in G.A.Nos.47 to 80 of 2008 dated 29.04.2009 are sought to be quashed in the present writ petition.

2. The writ petitioner is Hindustan Photo Films, which is a Company owned by the Government of India and was engaged in the business of manufacture of x-rays and film rolls.

3. The respondents 3 to 36 filed individual claim petition under Section 7(4) (c) of Payment of Gratuity Act, 1972 before the 2<sup>nd</sup> respondent for a direction to pay the gratuity amount considering the interim relief as part of wages for the purpose of computing gratuity with simple interest at 10% from the date it become due till the date of payment. The petitioner states that around 150 ex-employees, who left the services of the writ petitioner company under Voluntary Retirement Scheme formed HPF Voluntary Retired Employees Association and filed individual gratuity claim applications. The 2<sup>nd</sup> respondent by order dated 28.05.2008, allowed the claim petitions filed by the respondents 3 to 36. The petitioner Management preferred gratuity appeal in G.A.Nos.47 to 80 of 2008 before the 1<sup>st</sup> respondent and 1<sup>st</sup> respondent also dismissed the appeal on 29.04.2009.

4. The learned counsel appearing on behalf of the writ petitioner states that the company was already wound up during the year 2009 and employees were already settled with the benefits. All other employees, who were opted for Special Voluntary Retirement Scheme, received their benefits and as far as these respondents are concerned, the other benefits due to them were settled. However, the disputed gratuity amount had been already deposited before the 1<sup>st</sup> respondent / The Regional Labour Commissioner.

5. It is brought to the notice of this Court that the respondents 3 to 36 had already withdrawn 50% of the deposited amount and the balance deposited amount is now lying with the 1<sup>st</sup> respondent. In view of the fact that the Company was wound up and the settlements were made in respect of other employees, the respondents 3 to 36 are also entitled for the same benefits and under these circumstances, no further adjudication needs to be undertaken in respect of the grounds raised in the writ petition on merits.

6. This being the factum, this Court is of the considered opinion that no further interference is called for as far as the impugned orders are concerned. However, the respondents 3 to 36 are entitled to withdraw the deposited amount as per their apportionment granted by the 1<sup>st</sup> respondent. In this regard, the 1<sup>st</sup> respondent is directed to settle the balance gratuity amount,

if any, available with the 1<sup>st</sup> respondent in favour of the respondents 3 to 36 within a period of four(4) weeks from the date of receipt of a copy of this order.

7. With these observations, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

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To

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+1cc to M/s.Aiyar & Dolia, Advocate SR.No.77794

W.P.No.10876 of 2009

RGN(CO)  
GMY(14/10/2019)

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