

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.09.2019

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

W.P.No.4032 of 2019
and
W.M.P.No.4479 of 2019

The Management
S.527, Kelamangalam Agricultural Producers
Cooperative Marketing Society Ltd.
Rep.by its Managing Director
Kelamangalam,
Krishnagiri District.Petitioner

vs

1.The Appellate authority/Joint Commissioner
of Labour
under the Payment of Gratuity Act,
Coimbatore.

2.The Assistant Commissioner of Labour,
Authority under the Payment of Gratuity,
Salem.

3.G.PrabhakaranRespondents

Prayer : Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
calling for the records of the order passed by the 1st respondent
in PGA No.15/2018 dated 13.11.2018 and confirming the order of
the 2nd respondent in PG No.289/2016 dated 7.2.17 quash the same.

For Petitioner : Mr. Palaniswamy M.S.

For Respondents : Mr.N.Sakthivel
Additional Government Pleader
for R1 & R2
Mr.T.Sundaravadanam for R3

O R D E R

The parties to the writ petition proposed a settlement by stating that the writ petitioner Management is ready and willing to settle the gratuity amount in respect of the services rendered by the 3rd respondent workman in the writ petitioner society.

2. The 3rd respondent workman served in the writ petitioner society from 05.05.1999 to 30.06.2013. In respect of the above period, the gratuity amount is to be settled by the writ petitioner cooperative society and the said legal position is admitted by the learned counsel appearing on behalf of the writ petitioner company. Consequently, the learned counsel for the writ petitioner fairly submitted that in respect of the period of services rendered in the writ petitioner society, the entire amount of gratuity will be settled in favour of the writ petitioner. Accordingly, the amount is arrived at Rs.46,108/- (Rupees Forty Six Thousand One Hundred and Eight only)

3. The fact remains that the 3rd respondent workman previously was serving as a Salesman in Mathakondapalli Primary Agricultural Cooperative Society from 01.10.1987 to 04.05.1999. In respect of the services rendered by the 3rd respondent in Mathakondapalli Primary Agricultural Cooperative Society, the said society has to pay the gratuity to the 3rd respondent. However, the said society has not been impleaded as a party respondent before the original authority and even in the writ petition also, that society is not a party. Thus, in respect of that contribution, we are unable to adjudicate and in this regard, the 3rd respondent workman is at liberty to approach the competent authority for the purpose of recovering the gratuity amount for the services rendered by him at Mathakondapalli Primary Agricultural Cooperative Society from 01.10.1987 to 04.05.1999.

4. As far as the writ petitioner society is concerned, they are willing to settle the entire gratuity amount in favour of the 3rd respondent.

5. It is brought to the notice of this Court that the writ petitioner had already deposited a sum of Rs.1,87,200/- (Rupees One Lakh Eighty Seven Thousand and Two Hundred only).

6. Under these circumstances, the respective parties namely the writ petitioner as well as the 3rd respondent agreed to settle the matter and the calculation of the gratuity amount has to be done by the 2nd respondent and after paying the entire gratuity amount for the period of services rendered by the 3rd

respondent in the writ petitioner society from 05.05.1999 to 30.06.2013, the balance amount is to be reimbursed to the writ petitioner.

7. This being the factum, the following orders are passed:

1) The 2nd respondent is directed to calculate the gratuity amount due to the 3rd respondent in respect of the services rendered by the 3rd respondent in the writ petitioner society with effect from 05.05.1999 to 30.06.2013 and accordingly, settle the gratuity amount in favour of the 3rd respondent along with the interest within a period of four weeks from the date of receipt of a copy of this order. The 2nd respondent is directed to reimburse the balance amount, if any available in the deposit in favour of the writ petitioner.

2) In respect of the gratuity amount to be paid to the 3rd respondent by the Management of Mathakondapalli Primary Agricultural Cooperative Society, the petitioner is at liberty to file a fresh claim against the said society for the purpose of recovering the gratuity amount due to him in the manner known to law.

3) It is made clear that in the event of filing a fresh claim against the Mathakondapalli Primary Agricultural Cooperative Society by the 3rd respondent, the delay if any is to be condoned and the claim petition is to be decided on merits and in accordance with law.

8. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar

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Sub-Assistant Registrar

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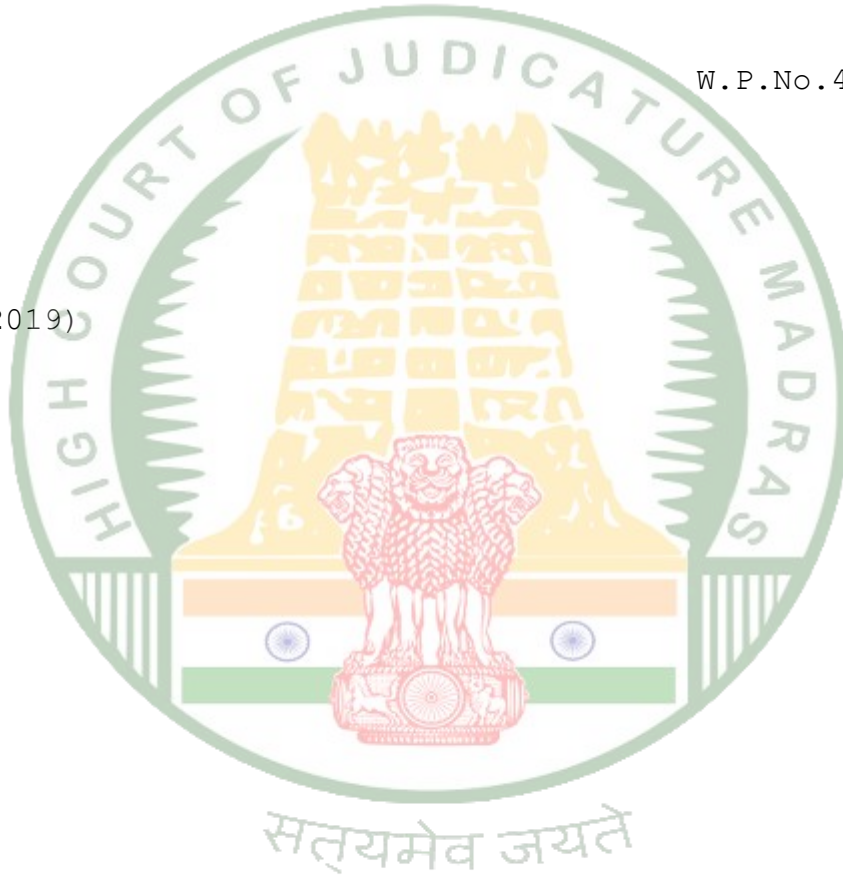
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+1 CC to Mr.T.Sundaravadanam, Advocate sr 77167
+1 CC to Mr.M.S.Palanisamy, Advocate sr 77086.
+1 CC to The Govt. Pleader sr 77704.

W.P.No.4032 of 2019

MP (CO)
SP (26/09/2019)



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