

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.13854 of 2005  
& W.P.M.P.No.15177 of 2005

Bharat Petroleum Corporation Ltd.  
Southern Regional Office,  
1, Ranganathan Gardens  
Off:11th Main Road,  
Anna Nagar, Chennai - 600 040.

...Petitioner

Vs

1. Regional Labour Commissioner,  
(Central)  
Shastri Bhavan  
Haddows Road,  
Chennai - 600 006.

2. Assistant Labour Commissioner  
(Central) I  
Shastri Bhavan  
Haddows Road,  
Chennai - 600 006.

3. C.Mukundan

.... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to pass an order of Writ of Certiorari, calling for the records of the 1st respondent in Gratuity Appeal No.2 of 2004 and quash its order dated 24.03.2005.

For Petitioner : Mr.Anand Gopalan for  
T.S.Gopalan & Co

For Respondents: Mr.J.Madana Gopal Rao  
Central Government Standing  
Counsel for R1 & R2  
No appearance for R3

O R D E R

The challenge in the present Writ petition is to set aside the order in Gratuity Appeal No.2 of 2004, dated 24.03.2005 on the file of the 1st respondent.

2. On a perusal of the letter of Retainer-ship dated 11.03.1964, it is seen that Dr.V.C.Chakrapani, father of the third respondent was only engaged as a medical consultant on a retainer fee and such an arrangement would not amount to employment, creating a relationship of master and servant between the petitioner corporation and the father of the third respondent. As such, the claim made by the petitioner under the provisions of the Payment of Gratuity Act, will not be applicable.

3. Though notice has been served and the name of the third respondent is also printed in the cause list, none appeared on his behalf. In view of the above observations, it can only be held that the third respondent is not entitled to payment of any gratuity from the petitioner.

4. In the light of the above observations, the proceedings in Gratuity Appeal No.2 of 2004, dated 24.03.2005 on the file of the first respondent is quashed. Accordingly, the writ petition stands allowed. Consequently, Consequently, connected miscellaneous petition is closed. No costs.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

vum

To

1. The Regional Labour Commissioner  
(Central)  
Shastri Bhavan  
Haddows Road,  
Chennai - 600 006.

2. The Assistant Labour Commissioner  
(Central) I  
Shastri Bhavan  
Haddows Road,  
Chennai - 600 006.

+1 CC to Mr.Madana Gopal Rao, Advocate sr 33348.

+1 CC to Mr.T.S.Gopalan Advocate sr 33251.

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MG(CO)  
SP(12/06/2019)