

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2019

Coram

The Hon'ble Mr. Justice **M.M. SUNDRESH**
and

The Hon'ble Mr. Justice **C.SARAVANAN**

Cont. Petition Nos.49 and 50 of 2015

and

M.P.Nos.1 and 1 of 2014 in
Rev.Apl.W.SR.Nos.49685 and 49687 of 2014

Dr.B.Sasisekaran

.. Petitioner in both Cont. Petitions

vs.

Dr.M.A.Atmanand,
Director - National Institute of
Ocean Technology (NIOT),
NIOT Campus,
Velachery Tambaram Road,
Chennai - 601 100.

.. Respondent in both Cont. Petitions

Petitions filed under Section 11 of Contempt of
Courts Act to punish the respondent for violating the
common order dated 17.02.2014 in W.P.Nos.18206 and 18207 of
2012.

For Petitioner .. Mr.B.Ravi in both Cont. Petitions

For Respondent .. Mr.V.Vijay Shankar
in both Cont. Petitions

COMMON ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

Alleging that the order of the Division Bench has not
<https://hcservices.ecourts.gov.in/hcservices/>
been complied with in letter and spirit with respect to

payment of gratuity and provident fund, the present contempt petitions have been filed.

2. Primarily two grounds have been raised by the contemnor before us. It is submitted that once again the period between 22.04.2002 and 17.12.2003 has been left out as against the period from 09.07.2011 to 31.03.2012 which has been excluded. Incidentally, it is submitted that what is to be done by way of calculation from the date of concluding the period in which the service comes to end - 31.03.2012 and not prior in point of time and with higher interest.

3. Learned counsel appearing for the respondent has submitted that the petitioner remained absent from 31.05.2011 which was regularised upto 08.07.2011. Thus he is not entitled for any gratuity and provident fund thereafter. For the period from 18.03.2011 to 31.03.2009, the gratuity has been paid, even prior to filing of the writ petitions. For the aforesaid period also, the amount has been paid afterwards except from the date on which his services were not regularised for unauthorised absence. Similarly, for the period between 22.04.2002 and 17.04.2003, the petitioner was working on adhoc basis with consolidated pay and the said period was excluded.

4.We find that the respondent was not correct in excluding the period for which the consolidated pay has been made from 22.04.2002 to 17.12.2003 since the Division Bench has given the factual finding on that basis.

5.In such view of the matter, the contentions raised by the respondent cannot be accepted. Accordingly, the respondent is directed to pay the gratuity and provident fund for the aforesaid period for which consolidated pay has been made, if not already paid.

6.Insofar as the other issue, we are not inclined to go into it though contention has been raised by the petitioner as well as respondent through review petition. In our considered view, there is no wilful disobedience of the order passed. Secondly, the payment of gratuity is a fresh cause of action. Therefore, we are not inclined to go into the said issue, giving liberty to the petitioner to raise the said issue by way of separate petition, if so advised, however, inasmuch as the learned counsel for the respondent has fairly stated that gratuity for the period between 22.04.2002 and 17.12.2003 which has not been paid will have to be paid within a period of six weeks from the date of receipt of a copy of this order. We make it clear that the other issues are left open.

7. With the above observation and direction, the contempt petitions stand closed. Consequently, miscellaneous petitions in M.P.Nos.1 and 1 of 2014 in Rev.Apl.W.SR.Nos.49685 and 49687 of 2014 are closed.

SD/-

ASSISTANT REGISTRAR (COMM.CASES)

mmi

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

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THS/26/03/2019

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