

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2019

CORAM

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

W.P.No.30122 of 2005
and
W.P.M.P.No.33009 of 2005

The Management,
Janatha Trading Company
17-D, Kalarampatty Main Road
Salem - 636 015 ...Petitioner

vs

1.The Presiding Officer,
Labour Court,
Salem.

2.R.Balakrishnan ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, call for the records on the file of Labour Court, Salem the 1st respondent herein in C.P.No.642 of 2002 and quash the final order passed therein on 28.4.2005.

For Petitioner : Mr.M.R.Raghavan

For Respondent : R1 - Labour Court
R2 - Mr.V.R.Anna Gandhi

ORDER

The learned counsel for the writ petitioner made a submission that the application under the Payment of Gratuity Act is not maintainable before the Labour Court. In fact the application, claiming gratuity, is to be filed before the Controlling Authority under the provisions of

the Payment of Gratuity Act, 1972. Thus, the application was filed before the authority, who had no jurisdiction to entertain the application and on this ground, the writ petition is to be allowed.

2. The said principles has been settled by the Hon'ble Supreme Court of India in the case of State of Punjab and Labour Court, Jullundur reported in 1980 1 LLN 39 and paragraph 8 is extracted hereunder:

"8. It is apparent that the Payment of Gratuity Act enacts a complete code containing detailed provisions covering all the essential features of a scheme for payment of gratuity. It creates the right to payment of gratuity, indicates when the right will accrue, and lays down the principles for quantification of the gratuity. It provides further for recovery of the amount, and contains an especial provision that compound interest at 9 per cent per annum will be payable on delayed payments. For the enforcement of its provisions, the Act provides for the appointment of a controlling authority, who is entrusted with the task of administering the Act. The fulfilment of the rights and obligations of the parties are made his responsibility, and he has been invested with an amplitude of power for the full discharge of that responsibility. Any error committed by him can be corrected in appeal by the appropriate Government or an appellate authority particularly constituted under the Act."

3. Though the Labour Court had erroneously entertained an application under the Payment of Gratuity Act, the Management has decided to settle the amount of gratuity as a goodwill gesture and considering the plight of the workman. The fairness adopted in resolving the issues by the writ petitioner is to be appreciated. A letter dated 19th January 2018 is placed before this Court, which was signed by the Proprietor of Janatha Trading Company, stating that the gratuity amount awarded was a sum of Rs.7,211/- (Rupees Seven Thousand Two Hundred and Eleven only) which will be settled in favour of the workman.

4. In view of the letter now placed before this Court, the writ petitioner is directed to settle the said Award amount with interest as applicable within a period of four weeks from the date of receipt of a copy of this order. The payment is to be directly given to the workman by way of a Demand Draft.

5. With this direction, the writ petition stands disposed of. However, there shall be no orders to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Cj conf)

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Sub Assistant Registrar

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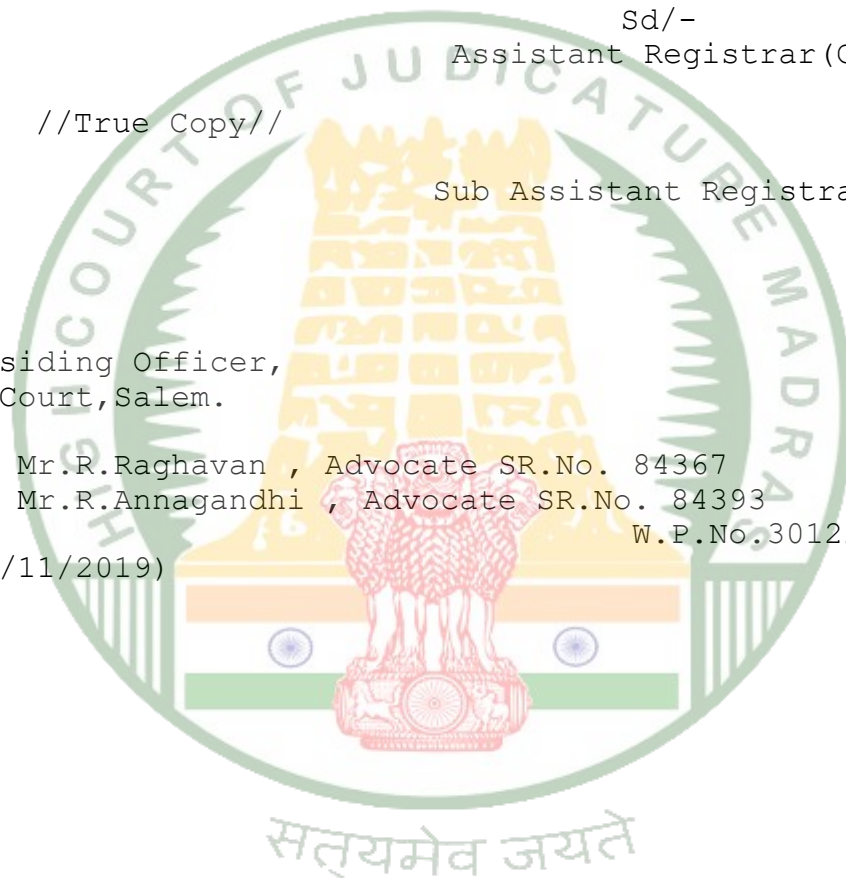
The Presiding Officer,
Labour Court, Salem.

+1cc to Mr.R.Raghavan , Advocate SR.No. 84367

+1cc to Mr.R.Annagandhi , Advocate SR.No. 84393

W.P.No.30122 of 2005

A.SK(04/11/2019)



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