

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.09.2019

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

W.P.Nos.22055 to 22058 of 2015
and

M.P.Nos.1, 1, 1 & 1 of 2015

W.P.No.22055 of 2015

The Secretary
Sri Saradha Matriculation Higher Secondary
School for Girls,
Fairlands - Salem - 16.Petitioner

vs

1.The Controlling Authority
appointed under the payment of
Gratuity Act 1972 and Assistant
Commissioner of Labour
office of the Deputy Commissioner of
Labour, Salem.

2.Tmt.K.R.VijayaRespondents

Prayer : Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
call for the records in P.G.No.69 of 2014 on the file of the
Controlling Authority appointed under the payment of Gratuity
Act, 1972 and Assistant Commissioner of Labour, Office of the
Deputy Commissioner of Salem, the first respondent herein, and
quash the order passed therein dated 27.03.2015.

W.P.No.22056 of 2015

The Secretary
Shri Saradha Balamandhir
Boy's Matriculation Higher Secondary
School,
19, Rajaji Road,
Salem - 7

..Petitioner

vs

1.The Controlling Authority
appointed under the payment of
Gratuity Act 1972 and Assistant
Commissioner of Labour
office of the Deputy Commissioner of
Labour, Salem.

2.R.Sumathi

..Respondents

Prayer : Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
call for the records in P.G.No.68 of 2014 on the file of the
Controlling Authority appointed under the payment of Gratuity
Act, 1972 and Assistant Commissioner of Labour, Office of the
Deputy Commissioner of Salem, the first respondent herein, and
quash the order passed therein dated 27.03.2015.

W.P.No.22057 of 2015

The Secretary
Shri Saradha Balamandhir
Boy's Matriculation Higher Secondary
School,
19, Rajaji Road,
Salem - 7

..Petitioner

vs

1.The Controlling Authority
appointed under the payment of
Gratuity Act 1972 and Assistant
Commissioner of Labour
office of the Deputy Commissioner of
Labour, Salem.

2.Tmt.T.Sundarambal

..Respondents

Prayer : Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
call for the records in P.G.No.71 of 2014 on the file of the
Controlling Authority appointed under the payment of Gratuity
Act, 1972 and Assistant Commissioner of Labour, Office of the
Deputy Commissioner of Salem, the first respondent herein, and
quash the order passed therein dated 27.03.2015.

W.P.No.22058 of 2015

The Secretary
Shri Saradha Balamandhir
Boy's Matriculation Higher Secondary
School,
19, Rajaji Road,
Salem - 7

..Petitioner

vs

1.The Controlling Authority
appointed under the payment of
Gratuity Act 1972 and Assistant
Commissioner of Labour
office of the Deputy Commissioner of
Labour, Salem.

2.Tmt.E.S.Usharani

..Respondents

Prayer : Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
call for the records in P.G.No.70 of 2014 on the file of the
Controlling Authority appointed under the payment of Gratuity
Act, 1972 and Assistant Commissioner of Labour, Office of the
Deputy Commissioner of Salem, the first respondent herein, and
quash the order passed therein dated 27.03.2015.

For Petitioner : Mr.M.R.Raghavan
(in all W.Ps)

For Respondents : R1 - Mr.J.Ramesh
Additional Government Pleader
(in all W.Ps)

R2 - Mr.D.Sadhasivan
(in all W.Ps)

C O M M O N O R D E R

The orders dated 27.03.2015 passed by the Controlling
Authority in P.G.Case No.69 of 2014, P.G.Case No.68 of 2014,
P.G.Case No.71 of 2014 and P.G.Case No.70 of 2014 dated
27.03.2015 are under challenge in all these writ petitions.

2. The writ petitioners are Sri Saradha Matriculation Higher
Secondary School for Girl's and Shri Saradha Balamandhir Boy's
Matriculation Higher Secondary School. The 2nd respondent in all
these writ petitions were employed in the respective writ
petitioners School and the grievances of the 2nd respondent in

these writ petitions was that the gratuity as applicable under the provisions of the Gratuity Act had not been settled and consequently, the 2nd respondent in all these writ petitions were constrained to approach the Controlling Authority under the Payment of Gratuity Act, 1972. The Controlling Authority allowed the claim of all the 2nd respondent on the ground that the 2nd respondent Teachers are entitled to get gratuity from the date of appointment to date of retirement. Accordingly, the amount of gratuity was calculated and orders were passed. Challenging the said orders, the learned counsel for the writ petitioners reiterated that the Management accepted the Payment of gratuity with effect from the year 1999 onwards and disputed the claim of the 2nd respondent in all these writ petitions for payment of gratuity from the year 1988 onwards.

3. The learned counsel for the writ petitioners further state that the terms and conditions of the services of the 2nd respondent in all the writ petitions also reveals that the 2nd respondent in these writ petitions are eligible to get gratuity from the year 1999. Therefore, the orders of the Controlling Authority are untenable.

4. The learned counsel for the 2nd respondent disputed the said contentions by stating that when the date of appointment was not disputed by the Management, the 2nd respondent Teachers are entitled to get gratuity from the date of appointment till the date of retirement and such being the spirit of the Payment of Gratuity Act, the right of gratuity under the provisions of the Act cannot be denied to the 2nd respondent in all these writ petitions. Thus, the orders of the Controlling Authority is in consonance with the provisions of the Gratuity Act and there is no infirmity.

5. This Court is of the considered opinion that admittedly, the 2nd respondent in all these writ petitions were appointed in the year 1988 and therefore, the gratuity is to be paid from the date of appointment. When there is no serious dispute about the date of appointment of the 2nd respondent in these writ petitions, the entitlement under the provisions of the Gratuity Act also cannot be denied by the Management.

6. This being the legal principles to be followed, there is no error apparent or perversity in respect of the findings of the orders passed by the Controlling Authority. Thus, this Court has no hesitation in coming to the conclusion that the competent Controlling Authority had taken a view which is in accordance with the provisions of the Act and there is no infirmity.

7. Accordingly, the orders dated 27.03.2015 passed in P.G.Case No.69 of 2014, P.G.Case No.68 of 2014, P.G.Case No.71 of 2014 and P.G.Case No.70 of 2014 are confirmed and all the writ petitions stand dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Controlling Authority
appointed under the payment of
Gratuity Act 1972 and Assistant
Commissioner of Labour
office of the Deputy Commissioner of
Labour, Salem.

+4cc to Mr.D.Sadhasivam, Advocate Sr.81653

W.P.Nos.22055 to 22058 of 2015

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srg 21/10/2019

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