



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.34395 & 34396 of 2012
M.P.Nos.1 & 2 of 2012

The Auroville Foundation
Auroville-605 101, Tamil Nadu
Rep.by its Secretary.
in both W.Ps

...Petitioner

vs.

1. Asst. Labour Commissioner(Central)
No.26, Haddows Road, Shastri Bhavan,
Chennai-600 006.

2. Deputy Chief Labour Commissioner(Central),
No.26, Haddows Road, Shastri Bhavan,
Chennai-600 006.

3.A.Lautchmi

... Respondents in both W.Ps

PRAYER IN W.P.No.34395 of 2012: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the first respondent in No.M.48/12/2005-B2/B3, quash the impugned order dated 16.08.2012 passed by the first respondent.

PRAYER IN W.P.No.34396 of 2012: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the first respondent in Gratuity Application No.48/12/2005-B2, quash the impugned order dated 07.10.2011 passed by the first respondent.

For Petitioner : Mr.V.Niranjan
in both W.Ps

For Respondents : Mr.R.Vasudevan
in both W.Ps CGSC for RR1 & 2
Mr.R.Veeramani for R3.

O R D E R

The orders dated 16.08.2012 and 07.10.2011 passed by the first respondent, directing the writ petitioner/Management to pay the gratuity amount of Rs.39,966.30 along with



interest at 10%, is under challenge in the present writ petitions.

2. The writ petitioner is the Auroville Foundation. The writ petitioner states that Auroville is an international township that was founded in February 1968. Admittedly, the third respondent was an employee of the writ petitioner/Management.

3. The learned counsel appearing on behalf of the third respondent made a submission that the third respondent served about 33 years from the year 1968 onwards. The writ petitioner/Management has failed to settle the gratuity amount to the third respondent and consequently, the third respondent filed an application under the Gratuity Act before the competent authority. The competent authority considered the length of services rendered by the third respondent and passed an order on 07.10.2011, stating that the third respondent Smt. Lautchmi is entitled to payment of an amount of Rs.39,966.30/-, as gratuity amount under the payment of Gratuity Act, 1972. After the Controlling Authority passed the said order under the payment of Gratuity Act, a second show cause notice was issued on 16.08.2012, for issuing a Revenue Recovery Certificate. At that stage, the writ petitioner has chosen to file the present writ petitions. After the said order was passed under the Gratuity Act on 07.10.2011 and the show cause notice issued on 16.08.2012, the present writ petitions were filed on 17.12.2012.

4. This Court is of the considered opinion that the third respondent had served about 33 years and therefore, she is entitled for gratuity under the provisions of the Act itself. On perusal of the order passed by the Controlling Authority, this Court do not find any infirmity or perversity, as the total gratuity amount itself is fixed as Rs.39,966.30. Under these circumstances, the writ petitioner is bound to settle the gratuity amount along with interest, as ordered by the Controlling Authority in proceedings dated 07.10.2011 under the provisions of the Gratuity Act. Accordingly, the show cause notice dated 16.08.2012 issued by the first respondent is confirmed.

5. The writ petition itself is filed challenging the show cause notice issued by the first respondent on 16.08.2012. The order passed by the Controlling Authority under the Gratuity Act in proceedings dated 07.10.2011, has not been challenged by the Management. Thus, the order became final. As far as the show cause notice is concerned, the same was issued for issuing the Revenue Recovery Certificate. Thus, the writ petitions cannot be entertained against the show cause notice, as the order passed under the Gratuity Act became final. This apart, the writ petitioner has to submit their explanation to the first respondent, with reference to the contention stated in the impugned show cause notice.



6. This being the factum, the writ petitions now filed challenging the show cause notice cannot be entertained and the petitioner/Management is bound to settle the gratuity amount as per the order dated 07.10.2012. In this view of the matter, the writ petitions are devoid of merits and stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

ssb

To

1. Asst. Labour Commissioner(Central)
No.26, Haddows Road, Shastri Bhavan,
Chennai-600 006.
2. Deputy Chief Labour Commissioner(Central),
No.26, Haddows Road, Shastri Bhavan,
Chennai-600 006.

+1cc to Mr.R.Vasudevan, Advocate, S.R.No. 96499

W.P.No.34395 & 34396 of 2012

KK(CO)
GN(06/01/2020)