

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.37643 of 2016
and
W.M.P.No.32269 of 2016

The Management
S.609 Ramadevam Primary Agricultural
Co-operative Credit Society Ltd.,
Ramadevam Post
Paramathi Taluk
Namakal District.

... Petitioner

-Vs-

1.The Appellate Authority
Under Payment of Gratuity Act cum
Joint Commissioner of Labour
Coimbatore, Office of the Joint Commissioner of Labour
Coimbatore- 641 108.

2.The Controlling Authority
(Payment of Gratuity Act cum Assistant
Commissioner of Labour)
Office of Deputy Commissioner of Labour
Salem.

3.V.Loganathan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for entire records relating to the order dated 09.03.2016 in A.G.A.Case No.69 of 2015 from the file of the 1st respondent and also the order dated 10.04.2015 in P.G.Case No.72 of 2014 from the file of the 2nd respondent, quash the same and to direct the 3rd respondent to re-deposit the excess amount of Rs.3,03,839/- received from the file of the 2nd respondent in P.G.Case No.72 of 2014.

For petitioner : Mr.V.Sekar

For Respondents: Mr.J.Ramesh,
Addl. Govt. Pleader for R1 & R2

Mr.R.M.D.Nasrullah for R3

ORDER

The order dated 09.03.2016, passed in A.G.A.Case No.69 of 2015, confirming the order dated 10.04.2015, passed in P.G.Case No.72 of 2014 are under challenge in the present writ petition.

2. The learned counsel appearing for the writ petitioner states that the third respondent was an employee of the writ petitioner/Management and joined the service on 01.04.1974. On 18.01.1988, a certificate was issued by the Deputy Registrar to the writ petitioner/Management for amending the Special By-law relating to the service conditions of the persons employed in the petitioner Co-operative Society. On 30.06.2011, the third respondent employee reached the age of superannuation and allowed to retire from service. The third respondent filed Form-I before the writ petitioner on 26.05.2014. In view of the fact that the gratuity amount had not been settled in favour of the third respondent/employee, he was constrained to file a case in P.G.No.72 of 2014 before the Controlling Authority, under payment of Gratuity Act. A counter statement was filed by the writ petitioner/Management. The second respondent passed an order directing the writ petitioner/Management to pay the gratuity and the writ petitioner/Management filed an appeal before the first respondent in A.G.A.Case No.69 of 2015. The appeal filed by the writ petitioner was rejected and challenging the above orders, the writ petitioner/Management is constrained to move the present writ petition.

3. The learned counsel for the writ petitioner/Management states that the calculation made by respondent Nos.1 and 2 are erroneous and not in conscience with the provisions of the Act.

4. The learned counsel appearing on behalf of the third respondent objected the contentions by stating that the fact regarding the length of service is not disputed by the writ petitioner/Management. The third respondent was working as a permanent employee in the writ petitioner Management and therefore, he is entitled for gratuity from the date of appointment till the date of superannuation. The length of service and the nature of employment are not disputed by the writ petitioner/Management before the competent authority as well as before the appellant authority, there is no reason to interfere with the orders passed under the Gratuity Act, as there is no perversity or infirmity.

5. This Court is of an opinion that payment of gratuity is a right of an employee. Under the provisions of the payment of gratuity, the amount is to be calculated based on the length of service rendered by an employee in an establishment. In the present case, the length of service was considered by the

competent authority and taking into account all these factors, the order was passed granting gratuity in favour of the the third respondent.

6. Under these circumstances, this Court is not inclined to interfere with the orders passed by the Original Authority as well as the Appellate Authority. Consequently, the order dated 09.03.2016 passed in A.G.A.Case No.69 of 2015, confirming the order dated 10.04.2015 passed in P.G.Case No.72 of 2014 are confirmed and the writ petition stands dismissed. The writ petitioner/Management is directed to settle the gratuity amount in favour of the third respondent within 12 weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

vsm

To

1.The Appellate Authority
Under Payment of Gratuity Act cum
Joint Commissioner of Labour
Coimbatore
Office of the Joint Commissioner of Labour
Coimbatore - 641 108.

2.The Controlling Authority
(Payment of Gratuity Act cum Assistant
Commissioner of Labour)
Office of Deputy Commissioner of Labour
Salem.

+1cc to Mr.V.Sekar, Advocate, S.R.No. 91067
+1cc to Mr.R.M.D.Nasrullah, Advocate, S.R.No. 91206
+1cc to the Government Pleader, S.R.No. 91549

W.P.No.37643 of 2016

LN(CO)
GN(05/12/2019)