

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.43272 of 2016

Gudiyatham Co-operative Primary Agricultural
and Rural Development Bank Limited,
Rep. by its Special Officer
(now rep. by President,
No.95/36, Narimurugappa Mudali Street,
Gudiyatham.

.... Petitioner

Vs.

1. The Gratuity Authority,
(Before the Assistant Commissioner of Labour),
Vellore.

2. L.A.Janardhanam

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records in P.G.72 of 2012 by its order dated 03.10.2016 on the file of the first respondent herein and quash the same.

For Petitioner : Mr.P.S.Sivashanmugasundaram,

For 1st Respondent : No appearance

For 2nd Respondent : Mr.Balan Haridas

सत्यमेव जयते
O R D E R

Petitioner has come up with this Writ Petition challenging the order dated 03.10.2016 passed by the 1st Respondent in P.G.No.72 of 2012, computing gratuity of the 2nd respondent herein on the basis of his last drawn wages, based on the settlement under Section 12(3) of the Industrial Disputes Act, 1947.

2. Though, it has been stated by the learned counsel for the Petitioner that the Petitioner/Bank has directed to disburse the amount payable to the 2nd Respondent/employee, for the purpose of arriving at the gratuity payable to the 2nd

Respondent/employee, the 1st Respondent/Gratuity Authority has computed wages based on the last drawn wages of the employee i.e. Rs.15,799/- and arrived at a sum of Rs.3,04,480/- together with interest as per the provisions of the Payment of Gratuity Act, 1972.

3. It is further stated by the learned counsel for the petitioner that part of the gratuity amount has been paid based on the wages unilaterally fixed for the purpose of determining the calculation, and not based on the actual wages drawn by the employee on the date of attaining superannuation.

4. That apart, as rightly pointed out by the learned counsel appearing for the 2nd Respondent/Workman, as per the provisions of the Payment of Gratuity Act, 1972, an appeal has not been preferred within the outer time limit of 120 days including the petition to condone the delay. He further submitted that the amount arrived at by the 1st Respondent/Controlling Authority is mandatory to file an Appeal.

5. Since the 1st Respondent/Controlling Authority has rightly held that the 2nd Respondent/employee is entitled to gratuity based on the last drawn wages, this Court is of the view that the difference in gratuity after deducting the amount paid from Rs.3,04,480/- can be paid within 45 days from the date of the order of the 1st Respondent together with interest at the rate of 10% per annum under Section 7(3)(A) of the Payment of Gratuity Act, 1972. If the amount is not paid within the time stipulated, it may be recovered after 45 days on the gratuity payable at the rate of 15% under Section 8 of the Payment of Gratuity Act, 1972.

With the above direction, this Writ Petition stands dismissed. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

asi/aeb

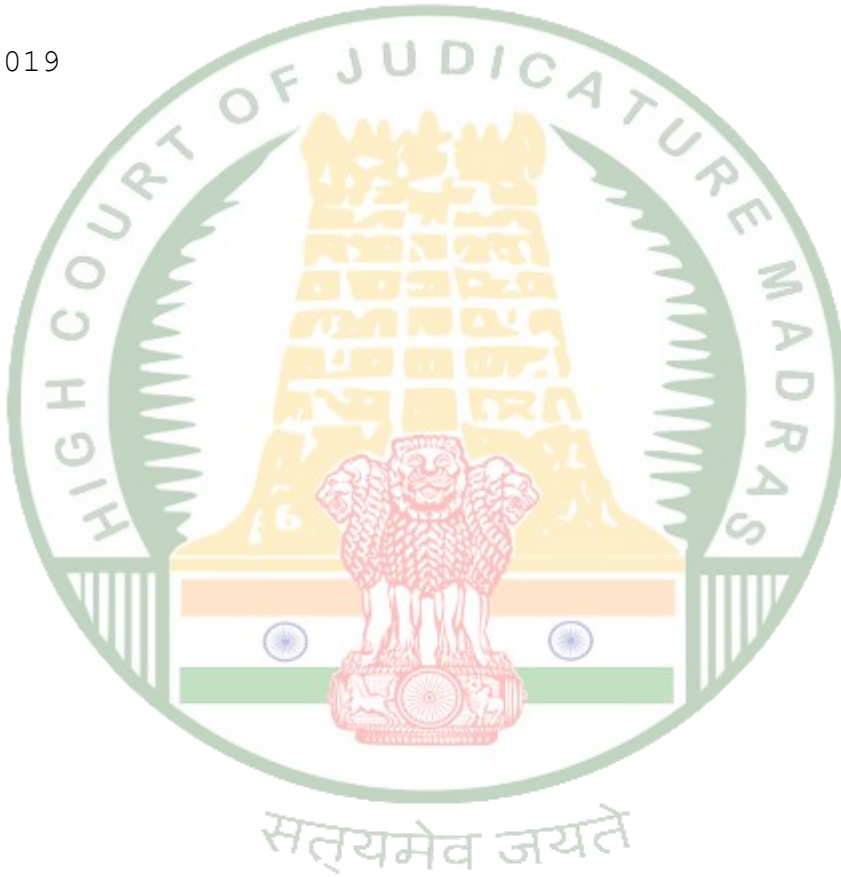
To:

The Gratuity Authority,
(Before the Assistant Commissioner of Labour), Vellore.

+1cc to Mr.P.S.Sivashanmugasundaram, Advocate sr.48537
+1cc to Mr.Balan Haridas, Advocate sr.48168

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nr 29/07/2019



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