



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.03.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. (MD) No.16917 of 2017

and

W.M.P (MD) Nos.13503 and 13504 of 2017

The Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation Ltd,
Sachidanandha Moopanar Road,
Thanjavur.

... Petitioner

Vs.

1.The Joint Commissioner of Labour,
Trichy.

2.The Assistant Commissioner of Labour,
Trichy.

3.A.Ulagarajan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records pertaining the impugned order passed by the 1st respondent in P.G.A.No.07 of 2014, dated 28.07.2015, confirming the order passed by the 2nd respondent in P.G.No.13 of 2013, dated 28.02.2014 and quash the same.

For Petitioner : Mr.R.Vijayakumar

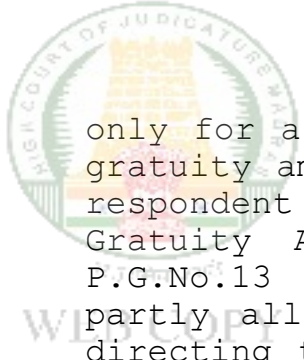
For R1 and R2 : Mr.D.Muruganantham,
Additional Government Pleader

For R3 : No Appearance

ORDER

The instant Writ Petition has been filed challenging the order dated 28.07.2015, passed by the 1st respondent in P.G.A.No.07 of 2014, confirming the order dated 28.02.2014, passed by the 2nd respondent in P.G.No.13 of 2013.

2. According to the petitioner, the 3rd respondent was given only seasonal employment that too in the Direct Procurement Centers of the petitioner corporation. Therefore, he is entitled for gratuity



only for a period of 7 days. According to the petitioner, the said gratuity amount was already paid to the 3rd respondent. But, the 3rd respondent approached the original authority under Payment of Gratuity Act, seeking for payment of additional gratuity. In P.G.No.13 of 2013, by order dated 28.02.2014, the 2nd respondent partly allowed the application submitted by the 2nd respondent by directing the petitioner to pay a sum of Rs.1,13,232/- as gratuity to the petitioner. Aggrieved by the order dated 28.02.2014, passed by the 2nd respondent in P.G.No.13 of 2013, the petitioner preferred an appeal before the 1st respondent in P.G.A.No.07 of 2014. By order dated 28.07.2015 in P.G.A.No.07 of 2014, the 1st respondent dismissed the appeal by confirming the order passed by the 2nd respondent in P.G.No.13 of 2013. As against the dismissal of P.G.A.No.07 of 2014, the instant Writ Petition has been filed.

3.It is the case of the petitioner/management that the 3rd respondent is only a seasonal worker employed by them at their Direct Procurement Centers on 03.11.1981 and he was engaged seasonally till 1984 Kuruvai season and from Kuruvai 1989 till Kuruvai 2000. Therefore, according to the petitioner, the 3rd respondent as a seasonal worker was entitled for gratuity at only 7 days wages for every completed year of service. According to the petitioner, they have already paid the gratuity amount to the 3rd respondent. Therefore, according to them, they are not liable to pay any extra gratuity amount to the 3rd respondent.

4.The issue as to whether the employment in Direct Procurement Centers is seasonal employment or not, is now covered by a Division Bench judgment of this Court in the case of The Senior Regional Manager, Tamil Nadu Civil Supplies Corporation, Sachindanadha Moopanar Road, Thanjavur, and another Vs. The Joint Commissioner of Labour, Trichy and others dated 12.03.2018, in W.A.(MD)Nos.353 to 357 of 2014, wherein, the Division Bench has held that employment in direct procurement centers will not amount to seasonal employment but is a regular employment.

5.The Division Bench has upheld the order dated 30.09.2013, passed by the learned Single Judge, in W.P.(MD)Nos.16007 to 16011 of 2013, wherein it was held that the District Direct Procurement Centers are all centers run by the Tamil Nadu Civil Supplies Corporation and the employees were employed not by the Direct Procurement Centers but by the Tamil Nadu Civil supplies Corporation itself and therefore, they are regular employees of Tamil Nadu Civil Supplies Corporation.

6.In the light of the above decision, it is now well settled that Direct Procurement Centers are also part and parcel of Tamil Nadu Civil Supplies Corporation Limited establishment. Therefore, the third respondent is not a seasonal worker, but a regular employee of the petitioner.



7. In the result, there is no merit in this Writ Petition. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

1. The Joint Commissioner of Labour,
Trichy.

2. The Assistant Commissioner of Labour,
Trichy.

+1CC TO MR.R.Vijayakumar, Advocate, Sr No.58201

+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.58326

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