



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) Nos.18902, 18906 and 18916 of 2019

and

W.M.P. (MD) Nos.15240, 15248 and 15252 of 2019

WEB COPY

The Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Thiruvarur Region, Thiruvarur. ... Petitioner in all W.Ps.

-Vs-

1.The Joint Commissioner of Labour,
(Appellate Authority Under the Payment of
Gratuity Act),
Office of the Joint Commissioner of Labour,
Trichy.

2.The Assistant Commissioner of Labour,
(Controlling Authority Under the Payment
of Gratuity Act),
Office of the Assistant Commissioner of Labour,
Trichy. ... Respondents in all W.Ps.

3.N.Marimuthu ... 3rd Respondent in W.P. (MD) No.18902 of 2019

3.N.Punnieswaran ... 3rd Respondent in W.P. (MD) No.18906 of 2019

3.Senthamaraiselvi... 3rd Respondent in W.P. (MD) No.18916 of 2019

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining to the impugned orders passed by the first respondent in P.G.A.No.66 of 2016, P.G.A.No.14 of 2017 and P.G.A.No.21 of 2017, dated 15.12.2017, 15.12.2017 and 02.01.2018 respectively and quash the same.

For Petitioner : Mr.R.Vijayakumar
(in all Writ Petitions)

For R1 and R2 : Mr.V.R.Shanmuganathan,
Special Government Pleader.
(in all Writ Petitions)

For R3 : Mr.S.Arunachalam
(in all Writ Petitions)



COMMON ORDER

The issues involved in these Writ Petitions are one and the same. Therefore, these Writ Petitions are heard together and disposed of by way of this common order.

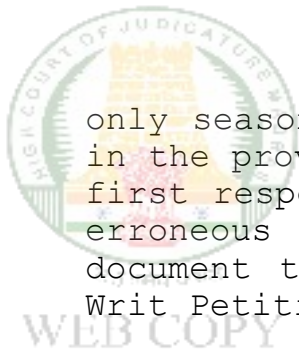
WEB COPY

2.The orders of the first respondent dated 15.12.2017 and 02.01.2018 are sought to be quashed in the present Writ Petitions.

3.The third respondent in all the Writ Petitions have filed petitions before the second respondent / Gratuity Authority, claiming gratuity for 31 years, 31 years and 30 years respectively. According to the third respondent in all the Writ Petitions, they were appointed on 28.01.1983, 15.12.1983 and 01.10.1982 respectively. They worked continuously till their date of retirement for about 31 years, 31 years and 30 years respectively. According to the third respondent in all the Writ Petitions, the petitioner has calculated gratuity payable only for the period from 2001 to 2013, 1993 to 2014 and 1982 to 2012 respectively. The petitioner has filed counter affidavit and opposed the said petitions. According to the petitioner, the third respondent in all the Writ Petitions were appointed as Seasonal Worker during Samba and Kuruvai season. After the season is over, they were not engaged by the petitioner. The third respondent in all the Writ Petitions have not worked for 240 days in a calendar year and denied the date of appointment. According to the petitioner, the third respondent in all the Writ Petitions were appointed only on 28.03.2001, 22.10.1993 and 31.01.2008 respectively. He further contended that the third respondent in all the Writ Petitions were only as Seasonal employees, after the season is over, there is no employer-employee relationship between the petitioner and the third respondent in all the Writ Petitions.

4.The second respondent, after considering the claim of the third respondent in all the Writ Petitions and the petitioner, has granted gratuity only for the period from 28.03.2001 to 31.12.2013, 22.10.1993 to 30.06.2014 and 4173 days respectively and held that the third respondent in all the Writ Petitions, are not entitled to gratuity as claimed by them and dismissed the claim petitions filed by them. Challenging the said orders, the third respondent in all the Writ Petitions, have filed appeals before the first respondent. The first respondent has allowed the appeals filed by the third respondent in all the Writ Petitions and directed the petitioner to pay gratuity for 31 years, 31 years and 30 years respectively. Against the said orders of the first respondent, the petitioner has come out with the present Writ Petitions.

5.The learned counsel appearing for the petitioner contended that the first respondent has failed to consider the claim of the petitioner that the third respondent in all the Writ Petitions were



only seasonal workers and did not work continuously as contemplated in the provisions of the Payment of Gratuity Act. The orders of the first respondent are non-speaking orders. The first respondent for erroneous reason, held that the petitioner has not filed any document to prove his case and therefore, prayed for allowing the Writ Petitions.

6.The learned counsel appearing for the third respondent in all the Writ Petitions contended that the petitioner is not a seasonal establishment. The third respondent in all the Writ Petitions were appointed on 28.01.1983, 15.12.1983 and 01.10.1982 respectively and worked continuously 31 years, 31 years and 30 years respectively. The third respondent in all the Writ Petitions have produced the documents to substantiate the date of appointment and total period of service before the respondents 1 and 2. The first respondent, considering the documents produced by the third respondent in all the Writ Petitions, held that the third respondent in all the Writ Petitions worked for 31 years, 31 years and 30 years respectively. Therefore, there is no error in the orders of the first respondent and prayed for dismissal of the Writ Petitions.

7.Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 and 2, the learned counsel appearing for the third respondent in all the Writ Petitions and perused the materials available on record carefully.

8.From the materials on record, it is seen that the third respondent in all the Writ Petitions have contended that they were appointed on 28.01.1983, 15.12.1983 and 01.10.1982 respectively and rendered 31 years, 31 years and 30 years respectively, continuously till the date of their superannuation. The third respondent in all the Writ Petitions have filed appointment order and Form-I to show that they were appointed in the year 1983, 1983 and 1982 respectively and worked continuously till their date of retirement. On the other hand, the petitioner resisted the claim of the third respondent in all the Writ Petitions on the ground that the third respondent in all the Writ Petitions were appointed only as seasonal workers and the petitioner has not produced any documents to substantiate their contentions. It is an admitted case of the petitioner that the petitioner Corporation is not seasonal establishment and has not produced any document to show that the third respondent in all the Writ Petitions were appointed only as seasonal employee and they worked for only Samba and Kurvai season alone. The first respondent, considering the documents filed by the third respondent in all the Writ Petitions, especially, the appointment order, held that the third respondent in all the Writ Petitions worked from 1983, 1983 and 1982 continuously till the date of their retirement and directed the petitioner to pay gratuity for the said period. There is no error in the said order.



9. In the result, these Writ Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

WEB COPY

Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS)

Myr

To

1. The Joint Commissioner of Labour,
(Appellate Authority Under the Payment of
Gratuity Act),
Office of the Joint Commissioner of Labour,
Trichy.

2. The Assistant Commissioner of Labour,
(Controlling Authority Under the Payment
of Gratuity Act),
Office of the Assistant Commissioner of Labour,
Trichy.

+3CC TO MR.R.VIJAYAKUMAR, Advocate Sr. No.96195, 96194 & 96193
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 96342

W.P. (MD) Nos.18902, 18906 and 18916 of 2019
05.11.2019

AL (CO)

TR (05.12.2019) 4P 5C