

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2020

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.34885 of 2015 and W.P.No.32590 of 2016
and M.P.No.1 of 2015

W.P.No.34885 of 2015

The Management of Golden Spinning
Mills Pvt.Ltd., rep. by its
Managing Director, P.Sundaram,
Seshanchavadi Post, Vazhapadi,
Salem District - 636 111 ... Petitioner

vs.

1. The Joint Commissioner of Labour,
Coimbatore.
2. The Assistant Commissioner of Labour,
Salem.
3. S.Subbarayan
S/o Sannasy .. Respondents

Writ Petition filed under Article 226 of the Constitution
of India praying to issue Writ of Certiorari to call for the
records of the 1st respondent in AGA No.258/2014 and quash its
order dated 28.07.2015.

For Petitioner : Mr.S.Ravindran
Senior Counsel
for Mr.S.Bazeer Ahamed

For Respondents: Mr.K.Magesh
Special Govt.Pleader for R1 & R2
Ms.C.S.Monica for R3

W.P.No.32590 of 2016

S.Subbarayan
S/o Sannasy ... Petitioner

vs

1. The Management of Golden Spinning
Mills Pvt.Ltd., rep. by its Managing Director,
Seshanchavadi Post, Vazhapadi,
Salem District - 636 111

2. The Joint Commissioner of Labour,
Coimbatore.

3. The Assistant Commissioner of Labour,
Salem.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus to call for the records of the second respondent pertaining to the order passed by the second respondent dated 28.07.2015 in AGA No.258/2014 and quash the same insofar as denial of interest for gratuity amount and consequently direct the first respondent to pay to the petitioner the interest at the rate of 18% per annum on the amount of gratuity due from the date it become due till the date of actual payment.

For Petitioner : Ms. C.S.Monica

For Respondents: Mr.S.Ravindran
Senior Counsel
for Mr.S.Bazeer Ahamed for R1
Mr.K.Magesh
Special Govt.Pleader for R2 & R3

COMMON ORDER

W.P.No.34885/2015 is filed by the Management, challenging the order of the 1st respondent dated 28.07.2015, wherein and whereby, the 1st respondent directed the petitioner Management to pay a sum of Rs.25,953/-, being the difference in the gratuity payable to the 3rd respondent. W.P.No.32590/2016 is filed by the workman, challenging the order of the 2nd respondent dated 28.07.2015 only insofar as denial of interest is concerned.

2. In both these writ petitions, the subject matter of challenge is one and the same being the order passed by the Joint Commissioner of Labour, Coimbatore, dated 28.07.2015. In W.P.No.34885/2015, the Management disputed the very quantum fixed by the said authority as the difference of gratuity payable to the workman and in the other writ petition filed by the workman the challenge is against not awarding interest towards such differential amount of gratuity.

3. Heard the learned senior counsel appearing for the Management and the learned counsel appearing for the workman and perused the materials placed before this Court.

4. It is the contention of the Management that the workman is estopped from claiming that he was deemed to be in service from 1991 onwards, pursuant to the settlement dated 01.08.1995. Therefore, it is contended by the Management that when the above said settlement dated 01.08.1995 was acted upon, the 3rd respondent cannot go beyond the same and seek for payment of gratuity by claiming that he is employed under the Management from 1991 onwards.

5. On the other hand, it is the contention of the workman that the very same Management has paid the gratuity amount to a similarly situated workman by name P.Palanisamy, in pursuant to the order passed by the competent authority dated 13.07.2016 with interest by taking note of his service also with effect from 1991. Therefore, it is contended that the Management is not justified in denying the very same benefit to the present workman. In support of such claim, the learned counsel appearing for the workman produced an order dated 13.07.2016 passed by the Assistant Commissioner for Labour, Salem, in respect of the said P.Palanisamy against the very same Management ordering payment of gratuity with interest at 10%. Perusal of the said order would show that the said workman, namely P.Palanisamy was taken to have worked under the Management from 1990 onwards till 12.05.2015. The amount was paid by the Management and the interest also was recovered under the Revenue Recovery Act. In support of the above contention, the learned counsel for the workman produced the proceedings dated 07.03.2018 issued by the competent authority.

6. Learned senior counsel appearing for the Management is not disputing the above said order passed by the Assistant Commissioner of Labour, Salem dated 13.07.2016 made in the case of P.Palanisamy and the subsequent proceedings recovering interest from the Management.

7. In view of the above stated facts, more particularly, the fact that the very same Management has paid the gratuity by taking the service as one from 1990 and also considering the fact that interest was ordered in respect of the said workman and recovered from the Management as well, this Court is of the view that the workman herein is also entitled to the very same benefit. Accordingly, the Writ Petition filed by the Management in W.P.No.34885/2015 is dismissed. The Writ Petition filed by the workman in W.P.No.32590/2016 is allowed and the impugned order dated 28.07.2015 is set aside only insofar as not awarding the interest is concerned. Consequently, it is ordered that the workman is entitled for interest payable from the date from which it is due. It is stated by the learned senior counsel for

the Management that the said sum of Rs.25,953/- has already been deposited on 24.11.2015 on the file of the Assistant Commissioner of Labour/2nd respondent, Salem. Therefore, the workman, namely the petitioner in W.P.No.32590/2016 is permitted to withdraw the said sum. Consequently, the Management shall pay interest at the rate of 12% per annum from 15.07.2013 to 24.11.2015 being the date of deposit, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar

To

1. The Joint Commissioner of Labour,
Coimbatore.
2. The Assistant Commissioner of Labour,
Salem.

+1cc to Mr.S.Baskar, Advocate Sr.No.8724
+1cc to The Government Pleader Sr.No. 9041

AKM/27.02.2020 /4P-5C/

W.P.No.34885 of 2015
and
W.P.No.32590 of 2016

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