



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.02.2020**

CORAM:

THE HONOURABLE **MR. JUSTICE M.S.RAMESH**

W.P. (MD) Nos. 2860, 2862, 2864, 2866, 2873, 2883, 2884, 2885, 2888,
2893, 2912, 2914 and 2916 of 2020

WEB COPY

Chokkalingam	...Petitioner in WP(MD).No.2860 of 2020
M.Murugan Othoovar	...Petitioner in WP(MD).No.2862 of 2020
G.Ayyachamy	...Petitioner in WP(MD).No.2864 of 2020
G.Ganapathy	...Petitioner in WP(MD).No.2866 of 2020
S.Subramanian	...Petitioner in WP(MD).No.2873 of 2020
A. Gomathinayagam	...Petitioner in WP(MD).No.2883 of 2020
A. Annamalai	...Petitioner in WP(MD).No.2884 of 2020
P. Krishnammal	...Petitioner in WP(MD).No.2885 of 2020
V. Ramasamy	...Petitioner in WP(MD).No.2888 of 2020
T.Gurusamy	...Petitioner in WP(MD).No.2893 of 2020
R.Arumugam	...Petitioner in WP(MD).No.2912 of 2020
M.Mariappan	...Petitioner in WP(MD).No.2914 of 2020
A.Saraswathi	...Petitioner in WP(MD).No.2916 of 2020

/vs./

1.The Commissioner,
Hindu Religious and Charitable Endowment,
Nungambakkam, Chennai.

2.The Deputy Commissioner/Executive Officer,
Arulmigu Sankaranarayanawamy Thirukoil,
Sankarankovil, Thenkasi District.

... Respondents in all cases

Common Prayer :

Writ Petitions filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to pay the gratuity amount with interest of 10 percent to the petitioners as per order of the Assistant Commissioner of Labour, Tirunelveli passed in PG.Nos.61, 63, 67, 68, 72, 74, 76, 77, 80, 78, 83 and 84 of 2019 and PG(IA) No.374/2017 dated 01.07.2019 respectively.

For Petitioner : Mr.P.Rajagopalan
in all Cases

For Respondents : Mr.VR.Shanmuganathan
in call Cases Special Government Pleader

**COMMON ORDER**

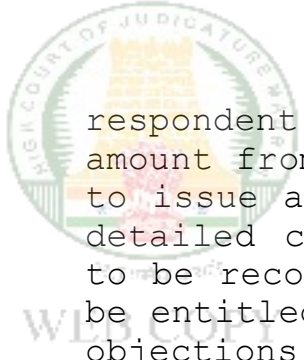
All the petitioners herein are the employers under the second respondent, who had reached their age of superannuation. Since the gratuity amount was not settled by the second respondent, the petitioners herein had filed a claim petition before the Labour Court for payment of their gratuity amount and the same came to be allowed on 01.07.2019. In spite of the order of the Labour Court, the second respondent herein had failed to settle the gratuity amount, which prompted the petitioners herein to file the present writ petitions.

2.The learned Special Government Pleader appearing for the respondents would submit that there are some claims against the petitioner, which requires to be adjusted from the gratuity amount and also that the petitioners have not handed over the charges till date and hence, the respondents had not settled the gratuity amount initially.

3.The learned counsel for the petitioner would submit that the petitioners were issued with notice on 01.02.2020 calling upon them to collect their gratuity amount. As per the said notice, a letter dated 01.02.2020 was issued by the second respondent, stating that the first respondent had sanctioned total sum of Rs.1,28,17,796/- towards the payment of the gratuity amount, as ordered by the Labour Court in favour of the employees to whom the amounts are due.

4.In view of such sanction, the petitioners herein have been called to come and collect the gratuity amount. However, the very fact that the objections which the second respondent has raised before this Court is to the effect that they intend to adjust some amount which have been raised as an objection and also since the second respondent has taken a stand that the petitioners have not handed over the charges, the petitioner apprehends that the gratuity amount itself may not be disbursed to the petitioners in full.

5.It is not in dispute that the order of the Labour Court dated 01.07.2019 passed in PG.Nos.61, 63, 67, 68, 72, 74, 76, 77, 80, 78, 83 and 84 of 2019 and PG(IA)No.374 of 2017 under the Payment of Gratuity Act has become final. Therefore, the second respondent would be bound to pay the outstanding gratuity amount together with interest at the rate of 10% p.a. Apart from the same, when there is no liberty granted to the second respondent to have any amounts adjusted from out of the gratuity amount ordered, there cannot be any justification on the part of the second respondent to deduct any amount, whatsoever, from and out of the gratuity amount ordered by the Labour Court. If at all, the second



respondent is of the view that they are entitled to recover any amount from the retired employees, the option available to them is to issue a notice of recovery calling for objections along with a detailed calculation memo with regard to the amount contemplated to be recovered and on receipt of the same, the petitioners would be entitled to give their objections. Only on consideration of the objections, the second respondent would be entitled to confirm the petitioners' liability towards aforesaid amounts. Without adverting to the said procedure, the second respondent may not be entitled to have the claims adjusted from the gratuity amount, to which, the petitioners will be entitled, in view of the orders of the Labour Court, dated 01.07.2019.

6.The learned counsel for the second respondent would also submit that the petitioners herein have not handed over the charges. The learned counsel for the petitioner, in reply to the same, submitted that the petitioners are willing to hand over the charges, if not already handed over.

7.In the light of the submissions made, the following directions are issued.

(i)The second respondent herein shall forthwith disburse the gratuity amount due to the petitioners under the order passed by the Labour Court in PG.Nos.61, 63, 67, 68, 72, 74, 76, 77, 80, 78, 83 and 84 of 2019 and PG(IA)No.374 of 2017 dated 01.07.2019, within a period of one week from the date of receipt of a copy of this order.

(ii)The petitioners shall hand over the charges of their respective posts to the second respondent/Temple within a period of two days thereafter.

(iii)The second respondent herein shall not deduct or adjust any sums out of the gratuity amount ordered by the Labour Court as referred to in Clause(1) above.

8.With the above directions, the writ petitions stand allowed. No costs.

Sd/-

Assistant Registrar(CS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Ns



To

1. The Commissioner,
Hindu Religious and Charitable Endowment,
Nungambakkam, Chennai.

2. The Deputy Commissioner/Executive Officer,
Arulmigu Sankaranarayanawamy Thirukoil,
Sankarankovil, Thenkasi District.

+1 CC to M/s.P.RAJAGOPALAN, Advocate SR-8253[F] dated 25/02/2020

Order made in
W.P. (MD) Nos. 2860, 2862, 2864, 2866,
2873, 2883, 2884, 2885, 2888, 2893,
2912, 2914 and 2916 of 2020
24.02.2020

NS (CO)

TR (16.03.2020) 4P 4C