



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD).Nos.10698, 10807 and 10808 of 2014

and

M.P(MD).Nos.1,1 and 1 of 2014

WEB COPY

S.O.Jeyaraj (55/2014)

S/o.Ochathevar

The President / Executive Officer,

Sithareuv Village Panchayat,

Aathur Taluk,

Dindigul District.

: Petitioner in all W.Ps

-Vs-

1. The Deputy Commissioner of Labour,

The Controlling Authority under

Payment of Gratuity Act,

Dindigul.

: 1st Respondent in all W.Ps

2. The Block Development Officer,

Block Development Office,

Sempatti, Aathur Taluk,

Dindigul District.

: 2nd Respondent in all W.Ps

3. A.Margandan

: 3rd Respondent in W.P(MD)No.10698/2014

4. M.Velusamy

: 3rd Respondent in W.P(MD)No.10807/2014

5. V.Durairaj

: 3rd Respondent in W.P(MD)No.10808/2014

Prayer in W.P(MD).No.10698/2014: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the orders passed by the first respondent in Case No.P.G.07/2013, dated 17.03.2014 and to quash the same as illegal.

Prayer in W.P(MD).No.10807/2014: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the orders passed by the first respondent in Case No.P.G.48/2012, dated 09.07.2013 and to quash the same as illegal.

Prayer in W.P(MD).No.10808/2014: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the orders passed by the first respondent in Case No.P.G.22/2013, dated 17.03.2014 and to quash the same as illegal.



For Petitioner in	:	Mr.K.R.Laxman
all W.Ps	:	Mr.J.Gunaseelan Muthiah
For R1 in all W.Ps	:	Additional Government Pleader
For R2 in all W.Ps	:	Mr.T.S.Mohamed Mohideen
For R3 in all W.Ps	:	Mr.S.Sarvagan Prabhu

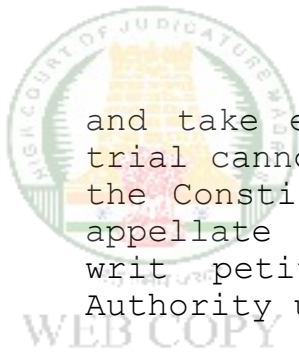
COMMON ORDER

The orders of the Controlling Authority, dated 17.03.2014 and 09.07.2013 respectively, passed under the Payment of Gratuity Act 1972, are under challenge in these present writ petitions.

2.The grievance of the writ petitioner is that the direction issued by the Controlling Authority under the Payment of Gratuity Act is unsustainable. The Panchayat President filed these writ petitions in their individual capacity questioning the order passed under the Payment of Gratuity Act.

3.This Court is of the considered opinion that the manner in which, the writ petitions are filed in the individual name of the President cannot be appreciated. As far as the impugned orders are concerned, the President Panchayat alone can challenge the order. However, one Mr.S.O.Jeyaraj, filed these writ petitions in his capacity as President. Thus, the manner in which, the cause title stated in the writ petition is improper. This apart, the impugned orders are passed by the Controlling Authority under the Payment of Gratuity Act. Under Section 7(7) of the Act, an appeal remedy is provided. Section 7(7) indicates that "any person aggrieved by an order under sub-section (4) may, within sixty days from the date of receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government in this behalf". For the purpose of preferring an appeal, the amount ordered by the controlling authority is to be deposited. Thus, the statutory remedy provided under the Act is to be exhausted.

4.The trend of filing a writ petition against the order of Controlling Authority can never be encouraged by the High Court in view of the fact that the writ petition under Article 226 of the Constitution of India is an extraordinary jurisdiction. Only on exceptional circumstances, the appeal remedy can be waived and in all other circumstances, the aggrieved persons are bound to exhaust the appellate remedy provided under the Statute. Thus, the appeal remedy cannot be dispensed with in a casual and routine manner. In such an event, the sanctity of appellate remedy provided under the Statute is diluted. The High Court cannot exercise the power of an appellate authority by examining the original records and by taking evidence. In certain circumstances, the appellate authorities are also bound to examine the original records of the original authority



and take evidence, if necessary. Such an elaborate procedure or trial cannot be conducted in a writ proceedings under Article 226 of the Constitution of India. Thus, the importance of exhausting the appellate remedy is to be considered by the High Court, whenever a writ petition is filed challenging the order of Controlling Authority under the Payment of Gratuity Act.

5. In the present case, the President in his personal capacity is challenging the orders of the Controlling Authority. Thus, these writ petitions are liable to be dismissed. This apart, the writ petitioner has not exhausted the appeal remedy provided under the Act and therefore, these writ petitions cannot be entertained. It is left open to the writ petitioner to exhaust the remedy in the manner known to law.

6. With these observations, these writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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To

The Deputy Commissioner of Labour,
Controlling Authority under
Payment of Gratuity Act,
Dindigul.

+3 CCs to Mr.S.SARVAGAN PRABHU, Advocate SR-21072, 21073 & 21074
+1 CC to the SPL GP SR-21096, 21097 & 21098.
+1 CC to Mr.T.S.MOHAMED MOHIDHEEN, Advocate SR-21190

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