



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.11.2020

CORAM:

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD).No.10703 of 2014

and

MP(MD)No.1 of 2014

S.O.Jeyaraj

... Petitioner

-Vs-

1. The Deputy Commissioner,
Gratuity Payment,
Dindigul.
2. The Block Development Officer,
Block Development Office,
Sempatti, Aathur Taluk,
Dindigul District.

3.M.Pommiammal

... Respondents

Prayer: 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.27/2013, dated 17.03.2014 and to quash the same as illegal.

For Petitioner : Mr.K.R.Laxman

For Respondents : Mr.P.Mahendran
Additional Government Pleader (for R1)

Mr.G.Arjunan
Government Advocate (for R2)

Mr.D.Selvaraj (for R3)

ORDER

The order of the Controlling Authority, dated 17.03.2014, passed under the Payment of Gratuity Act 1972, is under challenge in the present writ petition.

2.The grievances of the writ petitioner is that the direction issued by the Controlling Authority under the Gratuity Act is
<https://hcservices.ecourts.gov.in/hcservices/>



unsustainable. The Panchayat President filed a writ petition in his individual capacity questioning the order passed under the Gratuity Act.

3.This Court is of the considered opinion that the manner in which, the writ petition is filed in the individual name of the President cannot be appreciated. As far as the impugned order is concerned, the President Panchayat alone can challenge the order. However, one Mr.S.O.Jeyaraj, filed a writ petition in his capacity as a President. Thus, the manner in which, the cause title stated in the writ petition is improper. This apart, the impugned order is 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 challenging the order of the Controlling Authority. Thus, the writ petition itself is liable to be dismissed. This apart, the writ petitioner has not exhausted the appeal remedy provided under the Act and therefore, the writ petition cannot be entertained. It is left open to the writ petitioner to exhaust the remedy in the manner known to law.



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6.With these observations, the writ petition stands dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2020

Sub Assistant Registrar(CS)

sjj

To

1. The Deputy Commissioner,
Gratuity Payment, Dindigul.
2. The Block Development Officer,
Block Development Office,
Sempatti, Aathur Taluk,
Dindigul District.

+1 CC to Mr.S.SARVAGAN PRABHU, Advocate SR-21075.

+1 CC to the SPL GP SR-21132.

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02.11.2020

CK(CO)

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