



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.03.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD) Nos.24939, 24940, 24942,
24943 of 2019 and 4180 of 2020

R.Rakku ... Petitioner in W.P.(MD).No.24939/2019
T.Rajangam ... Petitioner in W.P.(MD).No.24940/2019
Patchi Ramarathina Pattar ... Petitioner in W.P.(MD).No.24942/2019
R.Ramasubramanian ... Petitioner in W.P.(MD).No.24943/2019

1.V.Sethuraman
2.R.Ramanathan
3.V.Meenakshi
4.Patchi Ananthanarayanan
5.N.Kaladevi
6.T.M.Senthilkumar
7.M.Sekar
8.S.Balachandran ... Petitioners in W.P.(MD).No.4180 of 2020

Vs.

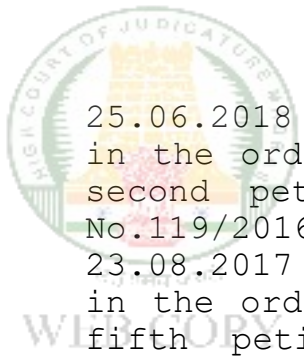
1.The Commissioner,
Hindu Religious and Charitable Endowment Administration,
Nungampakkam High Road,
Chennai - 600 006.

2.The Joint Commissioner/ Executive Officer,
Arulmigu Ramanathasamy Thirukoil,
Rameswaram. ... Respondents in
all the writ petitions

PRAYER in W.P. (MD).Nos.24939, 24940, 24942, 24943 of 2019 :

Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to implement the interest of 10% to the gratuity amount from the retirement date of the petitioners passed by the Controlling Officer of Payment of Gratuity/the Assistant Commissioner of Labour, Madurai in the orders dated 25.06.2018, 29.08.2018, 23.08.2017 and 25.06.2018 in Panikodai Nos.65/17, 148/17, 118/16 and 139/17 respectively filed by the petitioners to disburse the interest of 10% gratuity amount to the petitioners and fix a time frame.

PRAYER in W.P. (MD).No.4180 of 2020 : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to implement the interest of 10% to the gratuity amount from the retirement date of the petitioners passed by the Controlling Officer of Payment of Gratuity/the Assistant Commissioner of Labour, Madurai in the order dated



25.06.2018 in Panikodai No.134/2017 filed by the first petitioner, in the order dated 23.08.2017 in Panikodai No.94/2016 filed by the second petitioner, in the order dated 23.08.2017 in Panikodai No.119/2016 filed by the third petitioner, in the order dated 23.08.2017 in Panikodai No.97/2016 filed by the fourth petitioner, in the order dated 23.08.2017 in Panikodai No.67/2016 filed by the fifth petitioner, in the order dated 23.08.2017 in Panikodai No.25/2016 filed by the sixth petitioner, in the order dated 27.09.2018 in Panikodai No.103/2017 filed by the seventh petitioner and in the order dated 27.09.2018 in Panikodai No.104/2017 filed by the eight petitioner to disburse the interest of 10% gratuity amount to the petitioners and fix a time frame.

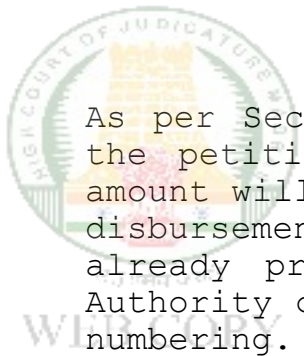
For petitioners in all the writ petitions	: Mr.R.Ramasamy
For 1 st respondent in all the writ petitions	: Mr.V.R.Shanmuganathan, Special Government Pleader
For 2 nd respondent in all the writ petitions	: Mr.V.Raghavachari

COMMON ORDER

By consent of both the parties, these writ petitions are taken up for final disposal at the stage of admission itself.

2. The learned counsel for the petitioners submitted that the petitioners in all the writ petitions served in the 2nd respondent temple for nearly three decades and retired from service. As the respondents failed to pay eligible gratuity, they filed a petition before the Controlling Authority of Payment of Gratuity. The Controlling Authority had directed the 2nd respondent to disburse the gratuity along with interest at the rate of 10% p.a.. As the 2nd respondent did not take any steps to disburse the gratuity amount, similarly placed persons filed W.P.(MD).No.1084 of 2019 as PIL before a Division Bench of this Court and the Division Bench directed the 1st respondent to comply with the order within a time frame. The first respondent by G.O.No.53, dated 27.05.2019, directed the 2nd respondent to disburse the gratuity amount with interest. Though the 2nd respondent paid gratuity amount at last, he has failed to pay interest, as directed by the Controlling Authority and by the first respondent. Recently, in a circular dated 13.01.2020, the first respondent again instructed the 2nd respondent to pay gratuity along with interest to the retired employees. Even then, the 2nd respondent has not paid the interest amount. Hence, the petitioners are before this Court with these writ petitions.

3. The learned counsel appearing for the 2nd respondent submitted that on the date of retirement, the petitioners were not eligible to claim any benefit under the Payment of Gratuity Act, as the Act was not extended to temple employees like the petitioners.



As per Section 7(3A) of the Act, only from the date of retirement the petitioners are entitled to gratuity amount and the gratuity amount will carry interest from that date to till the date of actual disbursement. He would further submit that the 2nd respondent has already presented appeals against the orders of the Controlling Authority of Payment of Gratuity and the same are in the process of numbering. Hence, this Court may dismiss all the writ petitions.

4. Admittedly, in this case, the first respondent has already instructed the 2nd respondent to pay gratuity with interest to the employees like the petitioners by issuing G.Os. It is stated that the 2nd respondent has paid only the gratuity amount and has failed to pay interest for the gratuity as directed by the Controlling Authority. It is also stated that the retired employees in the other temples were already received gratuity amount along with interest, but the 2nd respondent alone has not paid interest for the gratuity amount to the petitioners. Till date, the orders passed by the Controlling Authority has not been stayed/quashed by the appellate authority. Hence, there is no other option for the 2nd respondent except to comply with the direction issued by the Controlling Authority as well as the first respondent and to disburse the interest amount to the petitioners.

5. Recently, in a similar writ petition in W.P.(MD).No.24893 of 2019, this Court, by order dated 18.02.2020, directed the 2nd respondent to disburse interest at the rate of 10% per annum on the gratuity amount as awarded by the Controlling Authority within a period of six weeks and in the event of failure of the 2nd respondent to disburse the amount within the above stipulated time, the 2nd respondent shall pay the interest at the rate of 18% p.a. to the petitioners therein from the date of retirement till the date of actual payment.

6. Following the above, the 2nd respondent is directed to disburse interest at the rate of 10% per annum to the gratuity amount as directed by the Controlling Authority within a period of twelve weeks from the date of receipt of a copy of this order. In the event of failure of the 2nd respondent to disburse the amount within the time stipulated above, the 2nd respondent shall pay the interest at the rate of 18% p.a. to the petitioners herein from the date of retirement till the date of actual payment.

7. With the above directions, all the Writ Petitions stand disposed of. No costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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To

1.The Commissioner,
Hindu Religious and Charitable Endowment Administration,
Nungampakkam High Road,
Chennai - 600 006.

2.The Joint Commissioner/ Executive Officer,
Arulmigu Ramanathasamy Thirukoil,
Rameswaram.

+1 CC to M/s.R.RAMASAMY, Advocate (SR-12237[F] dated 18/03/2020)

Common Order made in
W.P. (MD) Nos.24939, 24940, 24942, 24943
of 2019 and 4180 of 2020
17.03.2020

MK (29.05.2020) 4P 4C