



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NOS.9512 TO 9515 OF 2018
AND W.M.P.NOS.11410, 11412, 11414 & 11416 OF 2018

Manager / Warden,
Youth Hostel Committee,
2nd Avenue, Indira Nagar,
Chennai 600 020

... Petitioner in
all W.P's

.vs.

1) Edwin Rajkumar

... R1 in W.P.
No.9512 of 2018

1) C.Ranganathan

... R1 in W.P.
No.9513 of 2018

1) E.Perumal

... R1 in W.P.
No.9514 of 2018

1) Manonmani

... R1 in W.P.
No.9515 of 2018

2) The Assistant Commissioner of Labour,
(The Controlling Authority),
Payment of Gratuity Act, 1972)
Office of the Deputy Commissioner of Labour,
Chennai 600 006

3) The Deputy Commissioner of Labour,
(The Appellate Authority),
Payment of Gratuity Act, 1972),
Office of the Deputy Commissioner of Labour,
Chennai 600 006

... RR 2 & 3 in
all W.P.'s

PRAYER in W.P.No.9512 of 2018:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent No.5 in P.G.Case No.5 of 2016 to 8 of 2016 dated 24.05.2017 and quash the same and



direct the 6th respondent to decide the appeal in exercise of powers under Section 7 of the Payment of Gratuity Act, 1972.

PRAYER in W.P.No.9513 of 2018:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in P.G.Case No.6 of 2016 dated 24.05.2017 and quash the same and direct the 3rd respondent to decide the appeal in exercise of powers under Section 7 of the Payment of Gratuity Act, 1972.

PRAYER in W.P.No.9514 of 2018:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in P.G.Case No.7 of 2016 dated 24.05.2017 and quash the same and direct the 3rd respondent to decide the appeal in exercise of powers under Section 7 of the Payment of Gratuity Act, 1972.

PRAYER in W.P.No.9515 of 2018:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in P.G.Case No.8 of 2016 dated 24.05.2017 and quash the same and direct the 3rd respondent to decide the appeal in exercise of powers under Section 7 of the Payment of Gratuity Act, 1972.

In all writ petitions:

For Petitioners: M/s.S.Thamizharasi

For R-1 : Mr.C.Sundaramurthy

For RR 2 & 3 : Mr.P.Ganesan,
Government Advocate.

C O M M O N O R D E R

Since the issue involved in all the writ petitions are one and the same, they are disposed of by this common order.

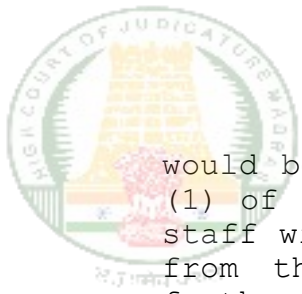
2. The Controlling Authority, under the Payment of Gratuity Act, 1972 (hereinafter referred to as the 'Act') had passed an order on 24.05.2017, and directed the petitioners herein to pay the first respondent, the Gratuity to the tune of Rs.4,35,351/- (Rupees Four Lakhs Thirty Five Thousand Three Hundred and Fifty



3. The said order is put under challenge in these present writ petitions. The predominant ground raised by the learned counsel for the petitioners is, questioning the jurisdiction of the second respondent herein in entertaining an application under Section 7(4) of the Act. According to the learned counsel, the Youth Hostel Committee is a part of the Ministry of Youth Affairs and Sports, Government of India and is managed by the Hostel Management Committee and therefore, the jurisdiction to handle the first respondent's application would be the Authority under the Central Government and therefore, the Assistant Commissioner of Labour was clearly out of jurisdiction in passing the impugned orders.

5. The Management of the affairs of the Youth Hotel is set out in the Youth Hostel Manual. As per clause (1) of the said Manual, the Hostel Management Committee is required to be formed by the State Government and the guidelines to be followed is laid down by the Government of India. This Clause clearly sets out that the Hostel Management Committee is to be formed only by the State Government and that the role of the Central Government would be only for approval. This apart, the Chairman of the Hostel Management Committee would be the Secretary of the Youth Affairs from the State Government with other members. It is only when in cases where the State Government fails to constitute the Hostel Management Committee, it would have the right to form a Committee.

7. Chapter V of the Manual deals with the "Staff Pattern" whereby, the employment and removal of the staff of the Hostel



would be the responsibility of the Hostel Management. In Clause (1) of Chapter V, it is provided that the wages / salary of the staff will be paid from the hostel funds and the funds received from the State Government. The terms and condition therein, further stipulate that the staff of the Youth Hostel is required to be treated as 'Hostel Employees' and will be governed by the Rules and Regulations framed by the Hostel Management Committee. The employment of these staff will be on a pattern suiting the convenience, requirements, and resources of the Hostel. The Hostel Management Committee is also required to frame Rules.. etc., in respect of the pay to the staff of the Hostel. Apart from these, various other duties and responsibilities have also been given to the Hostel Management Committee.

8. On an over all view of these duties and responsibilities and by taking into account that the Hostel Management Committee itself is formed by the State Government, I am not in approval of the submission of the learned counsel for the petitioners that the Authorities under the Central Government, insofar as the Payment of Gratuity is concerned, would have jurisdiction and the Authority, which is the State Government will not. Rather, in the absence of any specific Rule framed or any guidelines in the Manual, both the Tribunal/Authorities under Central, as well as State Government, would have jurisdiction over this issue. Thus, this Court is of the view that the jurisdiction exercised by the second respondent while passing the impugned order is correct.

9. At this juncture, the learned counsel for the petitioners would submit that as against the order passed by the Authority under section 7(4) of the Act, an appeal remedy is provided under the Appellate Authority under Section 7(7) of the Act which requires to be preferred within a period of 60 days, which could be extended by another additional period of 60 days. Since the limitation has expired, the learned counsel would make an earnest request to grant them liberty to prefer an appeal by extending limitation.

10. In normal circumstances, if there was no inordinate lapse of time from the date of retirement of the employees, this Court may have taken a sympathetic view and granted liberty to the petitioners to prefer an appeal. However, in the instant case, among the four employees, though three of them had retired about ten years back and one had retired about seven years back, they have not been paid the gratuity amount till date. The issue as to whether these employees are entitled for gratuity amount is not in dispute. The only objection of the petitioners seems to be that it is the Central Government Authorities under the payment of Gratuity Act, who would have jurisdiction. Now, that this Court has found that both Central as well as the State



Government Authorities will have jurisdiction over these issues and since, the second respondent herein had rightly exercised his jurisdiction and passed orders under section 7(4) of the Act, granting liberty to the petitioners to prefer an appeal at this belated stage, would cause serious prejudice to these employees, who have been waiting for their gratuity amount for so many years. On this ground, I am not inclined to grant liberty to the petitioners for preferring an appeal.

11. In the result, there are no merits in these writ petitions. Accordingly, the Writ Petitions are Dismissed. The petitioners herein shall pay the amount as ordered by the second respondent, together with interest at the rate of 10% per annum, ordered in the impugned order dated 24.05.2017, within a period of four (04) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sts

To:

- 1) The Assistant Commissioner of Labour,
(The Controlling Authority),
Payment of Gratuity Act, 1972)
Office of the Deputy Commissioner of Labour,
Chennai 600 006
- 2) The Deputy Commissioner of Labour,
(The Appellate Authority),
Payment of Gratuity Act, 1972),
Office of the Deputy Commissioner of Labour,
Chennai 600 006

+1cc to M/s.S.Thamizharasi, Advocate, S.R.No.68074
+4ccs to Mr.C.Sundaramurthy , Advocate, S.R.No.68269 to 68272

W.P.Nos.9512 to 9515 of 2018

NR(CO)
PM/22/12/2021