



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.07.2021

CORAM

THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. (MD)No.1268 of 2021

M.Valasubramanian

... Appellant/Petitioner

Vs.

The Executive Officer,
Arulmigu Chokkanathaswamy Temple,
Aruppukottai,
Virudhunagar District.

... Respondent/Respondent

Prayer : Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court in W.P.(MD)No.743 of 2021, dated 17.02.2021.

Prayer in WP(MD) . 743/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the respondent to pay interest at the rate of 10 percentage for the belated payment of Gratuity amount of Rs.3,97,783/- from the date of the petitioner`s retirement i.e 31.05.2018 till Final Settlement dt 26.07.2019 as per the section 7 of the payment of Gratuity Act on the basis of his Representation dt 21.09.2020 within the time stipulated by this Hon`ble Court and for other reliefs.

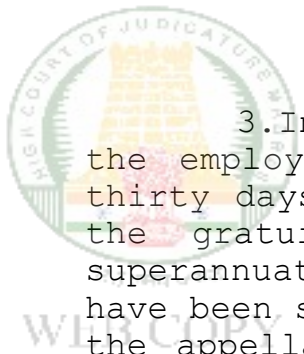
For Appellant	:	Mr.J.Lawrance
For Respondent	:	Mr.P.Mahendran
		Standing Counsel

J U D G M E N T

(Judgment of the Court was delivered by T. S. SIVAGNANAM, J.)

Heard Mr.J.Lawrance, learned counsel for the appellant and Mr.P.Mahendran, learned Standing Counsel for the respondent.

2.This Writ Appeal, filed by the Writ Petitioner, is directed against that portion of the order dated 17.02.2021 in W.P.(MD) No.743 of 2021, in and by which, the Hon'ble Court restricted payment of interest on the belated payment of gratuity amount from the date of order passed by the Controlling Authority under the Payment of Gratuity Act.



3. In terms of Section 7(3) of payment of Gratuity Act, 1972, the employer shall arrange to pay the amount of gratuity within thirty days from the date it becomes payable to the person to whom the gratuity is payable. The appellant attained the age of superannuation on 31.05.2018. Therefore, the Gratuity ought not to have been settled not later than 01.07.2018, but was not settled and the appellant had to approach the Controlling Authority under the Act for computation of Gratuity and an order was passed on 21.02.2019 to make payment of Gratuity in P.G.No.128 of 2018. The said order has attained finality and the respondent did not challenge the said order. In spite of direction by the Controlling Authority, since the Gratuity was not settled the Writ Petition was filed. The Writ Petition was disposed of by directing payment of Gratuity, but restricted payment of interest from the date of order passed by the Controlling Authority. The correctness of the same is questioned before us .

4. Mr. P. Mahendran, learned Standing Counsel, appearing for the respondent Temple submitted that the Temple is a Grade - II Temple and it does not have resources. The Temple gets income from the rents collected from the shops, but the shops owners did not pay the rent due to the COVID - 19 pandemic situation and all the other employees, who had retired earlier to the appellant have not even claimed the Gratuity.

5. In our considered view, the objections raised by the learned counsel for the respondent cannot be a ground to escape the rigor of the statute as Section 7(3) prescribes the payment the amount within thirty days from the date it becomes payable i.e., the date of superannuation. Section 7(3-A) states that if the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long-term deposits, as that Government may, by notification specify. Therefore, it is submitted by the learned counsel for the appellant that the learned Writ Court ought not to have restricted the payment of interest from the date of order passed by the Controlling Authority.

6. The grounds urged by the respondent would not enable the respondent Temple to get over the rigor of statutory provisions. That apart, merely because some of the employees of the Temple, who had retired earlier made no claim for Gratuity can hardly be a ground for not paying the Gratuity to the appellant, more so, he obtained an order from the Controlling Authority under the Payment of Gratuity Act, 1972, which has attained finality as the respondent Temple did not challenge the said order. The settled legal position is that Gratuity is not bounty, but it is an amount to an employee



in recognition of the past services and becomes payable on the employees retired. Therefore, the respondent Temple is bound to pay interest at the admissible rate.

7.It is submitted by the learned counsel on either side that the order was passed by the Controlling Authority on 21.02.2019 and amount was deposited before the authority by the Temple on 26.07.2019 and the interest for the period from 21.02.2019 to 26.07.2019 has been computed and paid. In the light of the statutory provision, the respondent Temple is bound to pay interest from 01.07.2018 onwards. Therefore, for the period from 01.07.2018 to 25.07.2019, the respondent Temple is bound to pay interest to the appellant.

8.The learned counsel appearing for the Temple submitted that the financial position is precarious, more particularly, during the COVID - 19 pandemic and the Court may show some concession.

9.Without strictly applying any mathematical formula, on a rough calculation we fix the interest at Rs.35,000/-, which shall be the full quit of the claim to the appellant. Considering the financial position of the respondent Temple, the said sum of Rs.35,000/- shall be paid in two equal installments, the first of which shall be paid or or before 26.07.2021 and the second installment shall be paid on or before 06.09.2021. In default, the appellant is entitled to simple interest on the amount payable at the rate of 18% p.a.

10.The Writ Appeal stands allowed to the extend indicated above. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



TO

The Executive Officer,
Arulmigu Chokkanathaswamy Temple,
Aruppukottai,
Virudhunagar District.

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+1 CC to M/s.J.LAWRANCE, Advocate (SR-21313[F]
dated 06/07/2021)

W.A. (MD) No.1268 of 2021
05.07.2021

NS (CO)

KB (14.07.2021) 4P 3C