



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON:	12.03.2021
DELIVERED ON:	30.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)No.4966 of 2018

and W.M.P. (MD) Nos.4957, 4958 & 18897 of 2018
(Through Video Conference)

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The Management,
INDOFAB Engineering Works,
BHEL Sub-Contractor,
REC Post,
Trichy 15.

... Petitioner

Vs

1) The Joint Commissioner of Labour /
Appellate Authority under the Gratuity Act, 1972
Trichirappalli 20

2) The Assistant Commissioner of Labour/
Controlling Authority under the Gratuity Act, 1972
Trichirappalli 20

3) M.Vasanth Kumar ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the impugned order dated 02.01.2018 in P.G.Appeal No.101 of 2016 on the file of the 1st respondent and order dated 23.09.2016 made in P.G.No.345/2016 on the file of the 2nd respondent and quash the same.

For Petitioner : Mr.P.Arun Jayatram

For RR 1 & 2 : Mr.A.Muthukaruppan,
Additional Government Pleader

For R-3 : Mr.A.R.Jeya Rhuthran

O R D E R

The claim of the third respondent herein for payment of Gratuity , which was allowed by the Controlling Authority on 23.09.2016 and confirmed by the first respondent on 02.01.2018, are put under challenge in the writ petition by the Management.



2. The case of the petitioner is that INDOFAB Engineering Works and INDOFAB Company are two separate entities. According to them, the third respondent had worked in INDOFAB Company and not under INDOFAB Engineering Works, which is the petitioner Company.

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3. The Controlling Authority under the Act, was of the view that both these companies are one and the same and therefore, determined the gratuity payable to the third respondent for thirty eight years of service between the period 01.05.1977 to 29.03.2004 at Rs.1,97,308/- together with 10% interest in accordance with Section 7(3) (A) of the Gratuity Act. In the appeal against the order of the Controlling Authority, the petitioner had taken the stand that the third respondent herein is not an employee of the petitioner Company. However, the Appellate Authority has relied upon Ex.P3, which is the Form (1) notice sent by the petitioner under Rule 7 of the Payment of Gratuity Rules, which document was addressed to the petitioner Company and it is not disputed.

4. The Controlling Authority as well as the Appellate Authority has addressed the evidence on hand and had come to a conclusion that the third respondent was an employee of the petitioner Company and accordingly, determined the gratuity payable to him. Though the original Controlling Authority had mistakenly determined the gratuity for a period of 38 years of service, the Appellate Authority had rectified the same for a lesser period of 27 years. The claim of the third respondent has been established based on the evidence available, in particular, Form (1) notice sent by the third respondent through RPAD. On these factual aspects, the impugned order have been passed.

5. The scope of the powers of this Court under Article 226 of the Constitution of India, while dealing with orders passed by statutory Authorities, is very limited to the extent that the High Court could not act as an Appellate Forum, but would interfere only in grave cases where the Authority acts without jurisdiction or the enquiry proceedings are in violation of the principles of natural justice or suffers from an error apparent on the face of the record, ... etc.

6. The Hon'ble Supreme Court in the case of **G.Veerappa pillai vs. Raman and Raman Limited** reported in AIR 1952 SC 192 had laid down such scope for interference in the following manner:

"Such writs as are referred to in Article 226 are obviously intended to enable the High Court to issue them in grave cases where the subordinate tribunals or bodies or officers act wholly without jurisdiction, or in excess of it, or in violation of the principles of natural justice, or refuse to exercise a jurisdiction



vested in them, or there is an error apparent on the face of the record, and such act, omission, error, or excess has resulted in manifest injustice. However extensive the jurisdiction may be, it seems to us that it is not so wide or large as to enable the High Court to convert itself into a Court of appeal and examine for itself the correctness of the decision impugned and decide what is the proper view to be taken or the order to be made".

This decision was followed by a three-Judge Bench of the Hon'ble Supreme Court in the case of **Radhey Shyam and another vs. Chhabi Nath & others** reported in (2015) 5 SCC 423.

7. In the light of the above discussion, when the Controlling Authority as well as the Appellate Authority had determined the gratuity amount payable to the third respondent, based on the facts and evidences available before them, this Court would not be empowered to re-look into these evidences. All the grounds raised by the petitioner touches on the factual aspects of the case and appraisal of the same will result to re-looking the evidences, which is impermissible. Hence, there is no merit in the writ petition. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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.

Sts

To:

- 1) The Joint Commissioner of Labour /
Appellate Authority under the Gratuity Act, 1972
Trichirappalli 20



2) The Assistant Commissioner of Labour/
Controlling Authority under the Gratuity Act, 1972
Trichirappalli 20

+1 CC to M/s.SPL GP (SR-14841[F] dated 31/03/2021)

+1 CC to M/s.P.ARUN JAYATRAM, Advocate (SR-15035[F] dated
01/04/2021)

Order made in
W.P. (MD) No. 4966 of 2018

Dated:
30.03.2021

GS (18.05.2021) 4P 5C