



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.06.2021

C O R A M

THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. (MD) No. 4780 of 2016

and

W.M.P. (MD) Nos. 4292 and 4293 of 2016

WEB COPY

The Management,
Thoothukudi District Central Co-operative Bank Ltd.,
Rep. by its Managing Director/Joint Registrar,
Ettayapuram Road,
Thoothukudi.

... Petitioner

- vs -

1. The Appellate Authority,
Under Payment of Gratuity Act,
(The Joint Commissioner of Labour),
Madurai.
2. The Assistant Commissioner of Labour,
The Controlling Authority,
Under Payment of Gratuity Act,
Tirunelveli.
3. Arumuganainar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the Second Respondent in P.G. No. 25 of 2013 dated 30.01.2014 and consequential appellate order passed by the First Respondent in P. G. A. No. 2 of 2014 dated 20.06.2015 and quash the same.

For Petitioner	:	Mr. D. Shanmugaraja Sethupathi
For Respondents	:	Mr. D. Gandhiraj,
1 and 2		Learned Counsel on behalf of
		Government of Tamil Nadu
For Respondent 3	:	Ms. Sheela
		for M/s. D. Geetha

O R D E R
(through video conference)

Heard Mr. D. Shanmugaraja Sethupathi, Learned Counsel for the Petitioner, Mr. D. Gandhiraj, Learned Counsel representing the First and Second Respondents and Ms. Sheela, Learned Counsel for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.



2. The Writ Petition challenges the order dated 20.06.2015 in P.G.A. No. 2 of 2014 passed by the First Respondent under Section 7(7) of the Payment of Gratuity Act, 1972 (hereinafter referred to as 'the P.G. Act' for short) confirming the order dated 30.01.2014 in P.G. No. 25 of 2013 passed by the Second Respondent under Section 7(4) of the P.G. Act granting gratuity to the Third Respondent.

3. The Petitioner had resisted the claim for gratuity made by the Third Respondent before the First and Second Respondents on the ground that the Third Respondent was liable to an extent of Rs. 6,92,352/- in surcharge proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983, for the loss incurred by the Petitioner that had to be compensated by forfeiture of gratuity under Section 4(6) of the P.G. Act.

4. It has been brought to notice that after the filing of the Writ Petition, the Principal District Court, Thoothukudi by orders dated 02.07.2019 in C.M.A. (CS) Nos. 3 to 5 of 2014 has set aside the orders in Tha. Va. No. 1/2005/Sa.Pa, Tha. Va. No. 2/2005/Sa.Pa and Tha. Va. No. 4/2005/Sa.Pa dated 28.09.2005 in which the liability for Rs. 6,92,352/- had been fastened against the Third Respondent in surcharge proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983. It is accepted by Learned Counsel for the Petitioner that as the said order has not been challenged thereafter, it has attained finality. He has also filed a memo dated 24.06.2021 to that effect through e-mail, which has been placed on record. In view of the subsequent events, no further adjudication is required in this Writ Petition. However, it is made clear that the Third Respondent is at liberty to make necessary application for the withdrawal of the amount of gratuity that has been deposited by the Petitioner before the concerned authority.

In the result, the Writ Petition is dismissed with the aforesaid clarifications. Consequently, the connected miscellaneous petitions are closed. No costs.

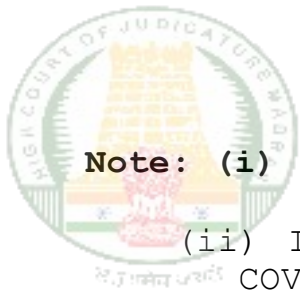
Sd/-

Assistant Registrar (WRITS)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



Note: (i) Issue order copy by 15.09.2021.

(ii) 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

1. The Appellate Authority,
Under Payment of Gratuity Act,
(The Joint Commissioner of Labour),
Madurai.
2. The Assistant Commissioner of Labour,
The Controlling Authority,
Under Payment of Gratuity Act,
Tirunelveli.

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-20242[F]
dated 25/06/2021)

W.P. (MD) No. 4780 of 2016
24.06.2021

NSN(CO)
SB(15.09.2021) 3P 4C