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W.P.No.26561 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.26561 of 2014

and

M.P.Nos.2 to 4 of 2014

The Management,
Tamilnadu State Transport
Corporation (Salem) Ltd.,
Dharmapuri Division,
12, Ramakrishna Road,
Salem - 636 007.
Rep. by its Managing Director

...Petitioner

Vs

1.The Appellate Authority,
Under the Payment of Gratuity Act, 1972,
The Joint Commissioner of Labour (Incharge),
Coimbatore.

2.The Controlling Authority,
Under the Payment of Gratuity Act, 1972,
The Assistant Commissioner of Labour,
Salem.

3.N.Sundaram

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India,
praying to issue a Writ of Certiorari, to call for the records of the order of the



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1st respondent, The Appellate Authority, under the Payment of Gratuity Act, 1972, Joint Commissioner of Labour (Incharge), Coimbatore made in வழக்கு எண்.ப.கொ.மே.மு. 67/2012 dated 21.08.2013 and the order passed by the 2nd respondent, the Controlling Authority (under the Payment of Gratuity Act, 1972) Assistant Commissioner of Labour, Salem made in வப.கொ.வ.எண்.15/2011 dated 21.06.2012 and to quash the same as illegal.

For Petitioner : Mr.R.Babu

For R1 & R2 : Mr.G.Velu,
Additional Government Pleader

For R3 : Mr.K.V.Shanmuganathan

ORDER

Heard Mr.R.Babu, learned counsel for the petitioner, Mr.G.Velu, learned Additional Government Pleader for the first and second respondents and Mr.K.V.Shanmuganathan, learned counsel for the third respondent.

2. When the Authority under the Payment of Gratuity Act had determined the gratuity amount payable to the third respondent-employee at the rate of Rs.6,744/- per month for the period from 12.03.1983 to 31.07.2002 and from 05.01.2005 to 31.08.2009, totaling 24 years at



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Rs.93,378/-, the Appellate Authority, vide its order dated 21.08.2013, had reduced the service period and calculated the gratuity amount at Rs.77,815/-.

The Transport Corporation has now challenged the order of the Appellate Authority before this Court.

3. Originally, the third respondent herein was dismissed from service on 31.07.2002. When the order of dismissal was challenged before the Labour Court, the same was set aside and reinstatement with continuity of service and back wages was ordered therein. When the Corporation had challenged the award before this Court in W.P.No.6981 of 2006, the award of the Labour Court came to be modified by this Court, through an order dated 23.04.2009 and while modifying the punishment of dismissal into postponement of two increments with cumulative effect, this Court had denied the service and other monetary benefits.

4. The Controlling Authority under the Payment of Gratuity Act had taken into consideration of the modified order passed by this Court and had calculated the gratuity period from 12.03.1983 to 31.07.2002 and from 05.01.2005 to 31.08.2009 at 24 years of completed service. The Authority



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had also determined the last drawn wages of the third respondent at Rs.6,744/- and accordingly calculated the gratuity amount payable at Rs.93,378/-. When the Corporation had challenged the order of the Controlling Authority before the Appellate Authority under Section 7(7) of the Payment of Gratuity Act, the service period was reduced from 24 years to 20 years and thereby, the gratuity amount was determined at Rs.77,815/-. The third respondent workman has not challenged the reduction of gratuity amount by the Appellate Authority.

5. The learned counsel for the petitioner submitted that the order of this Court passed in W.P.No.6981 of 2006 cannot be retrospective, as found by the Original and Appellate Authorities.

6. This Court, while partly allowing the Writ Petition, had modified the punishment of dismissal from service into stoppage of increments for two years with cumulative effect and further denied the service and monetary benefits. The Original Authority, as well as the Appellate Authority had calculated the gratuity amount payable from 12.03.1983 to 31.07.2002 and from 05.01.2005 to 31.08.2009. Such a calculation of the completed service



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period is in conformity with the order passed by this Court in W.P.No.6981 of 2006.

7. The petitioner had not questioned the last drawn wages of Rs.6744/-. While that being so, the Original Authority had adopted the last drawn wages, as well as the 24 years completed service and determined the gratuity amount payable. Though the Appellate Authority had reduced the completed years of service to 20 years, the third respondent had not challenged the same and therefore, I do not intend to venture into the sanctity of the reduction of total number of years.

8. In the light of the above findings, there are no infirmities in the order passed by the determining authority as well as the appellate authority. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

11.10.2022

Index:Yes/No
Internet:Yes/No
Speaking order/Non-speaking order
hvk



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M.S.RAMESH,J.

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