



W.P.No.27552 of 2017

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WEB CO **M.S.RAMESH,J.**

Today, the matter is listed under the caption "for being mentioned".

2. In continuation of the earlier order of this Court dated 27.01.2022, paragraph 8 of the said order shall stand modified as follows:-

"8. At this juncture, it brought to the notice of this Court that the petitioner Management had already deposited the gratuity amount determined by the Controlling Authority. The second respondent is granted liberty to make an application to the Controlling Authority seeking for withdrawal of the amount deposited by the petitioner management and on such an application, the Controlling Authority shall forthwith refund the amount, **together with the accrued interest**, atleast within a period of one week from the date of receipt of such an application."

3. All other observations made in my earlier order dated 27.01.2022, shall remain intact.

10.03.2022

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Note: Issue order copy on 17.03.2022



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09.03.2022



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THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.27552 of 2017 and
W.M.P.Nos.29478 of 2017 & 12304 & 12306 of 2021

The Chairman and Managing Director,
Tamilnadu Leather Development Corporation (TALCO) Officer,
O/o the Industries Commissioner and Director of Industries
and Commerce, SIDCO Building, Guindy,
Chennai – 600 032.

...Petitioner

-Vs-

1. The Joint Commissioner of Labour & Appellate Authority,
Under payment of Gratuity Act, Labour Welfare Buildings,
6th Floor, Teynampet, Chennai – 600 006.

2. A.S.Lajapathy

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records pertaining to the P.G.A.No.10 of 2016 on the file of 1st respondent Joint Commissioner of Labour, Chennai, and quash the same.

For Petitioner : Mr.V.R.Kamalanathan

For Respondents : Mr.C.Selvaraj,
Additional Government Pleader for

R1

Mr.S.Ayyathurai for R2



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ORDER

The authority under the Payment of Gratuity Act had passed an order on 26.02.2016 by determining the gratuity amount at Rs.69,231/- spread over the period between 01.06.1961 to 31.05.2001 totaling 39 years 11 months and 30 days of service period and this order came to be confirmed in an appeal by the first respondent herein on 27.03.2017.

2 Learned counsel appearing for the petitioner would submit that the total service period for which the gratuity ought to have calculated is 15 years and that the period calculated by the Original Authority, as well as the Appellate Authority, are incorrect. He raised a legal ground stating that the Original Authority come to such a conclusion without any evidence.

3 Per contra, the learned counsel appearing for the second respondent submitted that these factual aspects cannot be gone into in a writ petition and the Original Authority, as well as the Appellate Authority, have determined the gratuity amount based on the evidence available.



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WEB COPY 4 This Court, exercising its power under Article 226 of Constitution of India, will not be in a position to re-appreciate the evidence especially when the petitioner questions the service period of the second respondent, which are factual in nature.

5 Insofar as the ground raised by the petitioner that the orders are “on the basis of no evidence” is concerned, the impugned order of the Original Authority dated 26.02.2016 seems to be well founded, since the authority while coming to the conclusion that the second respondent herein had worked for the period between 01.06.1961 to 31.05.2001, had placed reliance on the oral and documentary evidence adduced before him. As such, it cannot be said that the order was passed without any evidence at all. Like wise, the Appellate Authority while confirming the order of the Original Authority had also dealt with all the findings of the Original Authority and thereby confirmed the order.

6 Thus I do not find any merits on the grounds raised by the learned counsel for the petitioner, since the Writ Court would not



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re-appreciate the evidence on which the Original Authority determined the quantum of gratuity amount and the service period.

7 Thus, the writ petition does not deserve any consideration and accordingly, stands dismissed. No costs. Consequently connected miscellaneous petitions are closed.

8 At this juncture, it brought to the notice of this Court that the petitioner Management had already deposited the gratuity amount determined by the Controlling Authority. The second respondent is granted liberty to make an application to the Controlling Authority seeking for withdrawal of the amount deposited by the petitioner management and on such an application, the Controlling Authority shall forthwith refund the amount atleast within a period of one week from the date of receipt of such an application.

27.01.2022

Index: Yes/No

Internet: Yes/No

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To

The Joint Commissioner of Labour & Appellate Authority,



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6th Floor, Teynampet, Chennai – 600 006.

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27.01.2022