



W.P.(MD)No.14799 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2022

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.14799 of 2013

and

M.P.(MD)No.1 of 2013

The Management,
Thanjavur Central Co-operative Bank Ltd.,
West Main Street,
Thanjavur – 613 009.

... Petitioner

Vs.

1. The Assistant Commissioner of Labour,
Tiruchirappalli.
2. The Joint Commissioner of Labour,
Tiruchirappalli.
3. Perumagalur Primary Agricultural
Co-operative Society Ltd.,
represented by its Secretary
Perumagalur, Peravoorani Taluk.
4. S.Dhamodharan



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5. The State of Tami Nadu,
represented by the Principal Secretary to Government
Co-operation, Food and Consumer Protection
Department,
Fort St. George,
Chennai – 600 009.

6. The Registrar of Co-operative Societies,
No.170, NV Natarajan Maaligai,
Periyar EVR High Road,
Poonamalle High Road, Kilpauk,
Chennai – 600 010.

... Respondents

***(R5 & R6 are Suo motu impleaded vide Court order dated
23.06.2021 in W.P.(MD)No.14799 of 2013)***

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the entire records relating to the order, dated 19.02.2013 in P.G. Appeal No. 14 of 2012 on the file of the second respondent and also the order of the first respondent, dated 28.03.2012 in P.G. No.99 of 2011 and quash the same.

For Petitioner	: Mr.K.Saravanan
For R1 & R2	: Mr.Senthil Ayyanar
For R3	: No appearance
For R4	: Mr.G.M.Xavier
For R5 & R6	: Mr.D.Gandhiraj



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ORDER

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This Writ Petition is filed challenging the impugned order passed in P.G. Appeal No.14 of 2012, dated 19.02.2013 on the file of the second respondent and also the order of the first respondent, dated 28.03.2012 in P.G. No.99 of 2011

2. The claim of the fourth respondent is that he was recruited as per the order of Adhoc Committee dated 26.07.1973 in the third respondent Society. Thereafter, the fourth respondent was absorbed in the petitioner Society. The fourth respondent on attaining superannuation on 03.09.2009 was retired from service. The fourth respondent gratuity amount was calculated as per the Private Scheme namely, “the Group Gratuity Scheme” with Life Insurance Corporation of India and the fourth respondent was sanctioned to the tune of Rs.5,24,358/-(Rupees Five Lakh Twenty Four Thousand Three Hundred and Fifty Eight only). The fourth respondent had retired on 30.11.2009 but the petitioner has paid the said amount only on 05.10.20___. Therefore, the fourth respondent is entitled to belated rate of interest.



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3. The contention of the petitioner Management is that the petitioner Management has absorbed the service of the fourth respondent in their Society from 30.07.1975, prior to that the fourth respondent was serving under third respondent. Therefore, the petitioner is not liable to pay any gratuity for the said period and the claim should be against the third respondent. This aspect was not taken into account by the first and second respondents authorities and passed an order under Payment of Gratuity Act against the petitioner.

4. After hearing the rival submissions, this Court has given its anxious consideration. It is seen that the fourth respondent was appointed by the Adhoc committee by the third respondent on 30.07.1973 and has served until 30.07.1975. Then the third respondent is liable to pay gratuity to the fourth respondent for the period from 30.07.1973 to 30.07.1975. But the fourth respondent while filing the petition before the authority has not impleaded the third respondent. Therefore, that portion of the claim cannot be entertained by the first and second respondents



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against the fourth respondent. Hence, this Court is set aside the order passed by the first and second respondents to the extent for a period from 30.07.1973 to 30.07.1975.

5. Thereafter, the fourth respondent had served under the petitioner Society until his superannuation. Therefore, the fourth respondent is entitled to gratuity for the subsequent period from the petitioner. According to the petitioner Society a Private Scheme is formulated by the petitioner Society, which is more advantageous than the Gratuity Scheme that is prescribed under Payment of Gratuity Act. As per the Private Scheme, the fourth respondent is entitled to gratuity to the tune of Rs.5,24,358/- (Rupees Five Lakh Twenty Four Thousand Three Hundred and Fifty Eight only). According to the Payment of Gratuity Act the fourth respondent is entitled to the tune of Rs.3,50,000/- (Rupees Three Lakh Fifty Thousand only). Therefore, this Court is of the considered opinion that the Private Scheme is more advantageous and as rightly pointed out by the petitioner society, the amount payable is only Rs.5,24,358/- (Rupees Five Lakh Twenty Four Thousand Three Hundred



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and Fifty Eight only)

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6. However, the petitioner society had paid the gratuity amount belatedly. The impugned order has fixed the rate of interest for the belated payment to 10%. The learned Counsel submitted that the rate of interest is on higher side and prayed to reduce it as 8%. Since the petitioner society is financial distressed, moreover the petitioner society had already paid the amount, this Court is inclined to reduce the rate of interest to 8%.

7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

11.11.2022

Index : Yes / No
Internet : Yes / No
jbr



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S.SRIMATHY, J

jbr

Order made in
W.P.(MD)No.14799 of 2013

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