



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:22.04.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

WEB COPY

W.P. (MD)Nos.11086 to 11097 of 2019

and

W.M.P (MD)Nos.8445, 8447, 8449, 8451, 8453, 8455, 8457, 8459, 8461, 8463, 8465 and 8467 of 2019

The Management ,
Virudhunagar District Central,
Cooperative Bank Ltd.,
Rep. by Managing Director/
joint Registrar,
Virudhunagar.

... Petitioner in All WPs

- Vs. -

1.The Controlling Authority,
Under Payment of Gratuity Act/
Deputy Commissioner of Labour,
O/o.Joint Commissioner of Labour,
Madurai-600 002.

.. Respondent No.1 in All WPS

M.Muthuveerappan

.. 2nd Respondent in WP (MD).11086/2019

K.Gurusamy

.. 2nd Respondent in WP (MD).11087/2019

S.Rengarajan

.. 2nd Respondent in WP (MD).11088/2019

K.Venkatraman

.. 2nd Respondent in WP (MD).11089/2019

M.Ravindran

.. 2nd Respondent in WP (MD).11090/2019

K.Nallaiyan

.. 2nd Respondent in WP (MD).11091/2019

K.Alagarsamy

.. 2nd Respondent in WP (MD).11092/2019

V.Ramamoorthy

.. 2nd Respondent in WP (MD).11093/2019

M.Seenivasan

.. 2nd Respondent in WP (MD).11094/2019

M.Sankarapandian

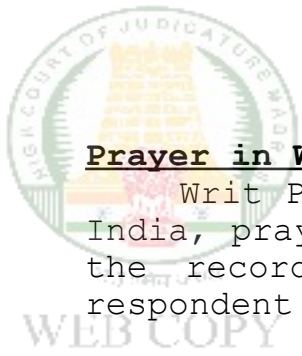
.. 2nd Respondent in WP (MD).11095/2019

S.Neerathilingam

.. 2nd Respondent in WP (MD).11096/2019

M.Vellaichamy

.. 2nd Respondent in WP (MD).11097/2019



Prayer in WP(MD). 11086 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, to call for the records relating to the common order passed by the first respondent in P.G.No.215/2015 dated 27.03.2019 and quash the same.

Prayer in WP(MD). 11087 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, to call for the records relating to the common order passed by the first respondent in P.G.No.216/2015 dated 27.03.2019 and quash the same.

Prayer in WP(MD). 11088 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, to call for the records relating to the common order passed by the first respondent in P.G.No.217/2015 dated 27.03.2019 and quash the same.

Prayer in WP(MD). 11089 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, to call for the records relating to the common order passed by the first respondent in P.G.No.218/2015 dated 27.03.2019 and quash the same.

Prayer in WP(MD). 11090 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, to call for the records relating to the common order passed by the first respondent in P.G.No.219/2015 dated 27.03.2019 and quash the same.

Prayer in WP(MD). 11091 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, to call for the records relating to the common order passed by the first respondent in P.G.No.220/2015 dated 27.03.2019 and quash the same.

Prayer in WP(MD). 11092 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, to call for the records relating to the common order passed by the first respondent in P.G.No.221/2015 dated 27.03.2019 and quash the same.

Prayer in WP(MD). 11093 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, to call for the records relating to the common order passed by the first respondent in P.G.No.222/2015 dated 27.03.2019 and quash the same.



Prayer in WP(MD). 11094 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, to call for the records relating to the common order passed by the first respondent in P.G.No.223/2015 dated 27.03.2019 and quash the same.

Prayer in WP(MD). 11095 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, to call for the records relating to the common order passed by the first respondent in P.G.No.224/2015 dated 27.03.2019 and quash the same.

Prayer in WP(MD). 11096 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, to call for the records relating to the common order passed by the first respondent in P.G.No.225/2015 dated 27.03.2019 and quash the same.

Prayer in WP(MD). 11097 of 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, to call for the records relating to the common order passed by the first respondent in P.G.No.236/2015 dated 27.03.2019 and quash the same.

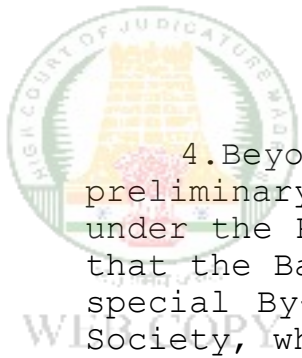
For Petitioners	: Mr.D.Shanmugarajasethupathi
For R1	: Mr.M.Ramesh Government Advocate
For R2	: No appearance

COMMON ORDER

The order passed by the competent authority under the Payment of Gratuity Act is under challenge in these writ petitions.

2.The petitioner is Virudhunagar District Central Co-operative Bank Ltd. The employees of the Central Co-operative Bank approached the competent authority under the Payment of Gratuity Act, claiming differential amount, which was already settled by the petitioner Central Co-operative Bank to the respondent workmen.

3.The learned counsel for the petitioner made a submission that employees have not only claimed the differential amount based on certain erroneous calculation, but also increased the number of eligible years over and above admissible under the Scheme, which in force in Central Co-operative Bank, which is approved by the Registrar of Co-operative Society under the provision of the Tamil Nadu Co-operative Society. The competent authority adjudicated the issues and granted relief in favour of the workmen. Thus, the petitioner Bank has chosen to file these writ petitions.



4. Beyond the merits raised in these writ petitions, a preliminary ground regarding the maintainability of an application under the Payment of Gratuity Act itself is questioned on the ground that the Bank implemented the gratuity scheme in the by-laws and the special By-laws duly approved by the Registrar of the Co-operative Society, who is the competent authority under the Act.

5. This apart, the said Gratuity Scheme is included in the settlement under Section 12(3) of the Industrial Disputes Act, entered into between the management and the workmen under the Industrial Disputes Act. Thus, the by-laws as well as the settlement under Section 12(3) of the Industrial Disputes Act, are pending and therefore, the application under the Payment of Gratuity Act, which is a general law, is not maintainable. The Payment of Gratuity Act would be applicable, if there is no special scheme for gratuity in any organization. If at all a statutory scheme of payment of Gratuity is in force, then the general law would have not applicable.

6. In the present case, the gratuity scheme has already been implemented to the employees of the petitioner Central Co-operative Bank through its by-law and the said by-law was duly approved by the Registrar of the Co-operative Societies Act. Based on the said by-law, the management of the petitioner Central Co-operative Bank entered into the settlement under Section 12(3) of the Industrial Disputes Act, with the employees. Thus, the employees are not entitled to approach the competent authority under the Payment of Gratuity Act.

7. It is brought to the notice of this Court that as per the by-law and the scheme, the gratuity amount had already been settled in favour of the employees. However, over and above their eligibility, they have claimed by filing a petition under the Payment of Gratuity Act. Therefore, the very approach of the employees itself is untenable.

8. The issue regarding maintainability of an application under the general law was decided in respect of the another Central Co-operative Bank viz., Villupuram District Central Co-operative Bank Ltd., in W.P.No.29696 of 2016, dated 25.11.2019. The relevant paragraphs are extracted hereunder:

"8. As far as the Co-operative Societies registered under the Tamil Nadu Co-operative Societies Act are concerned, the said Act alone will prevail over the general law. In other words, as far as Cooperative Societies are concerned, Co-operative Societies Act is the Special Act and Gratuity Act is to be considered as General Law. Therefore, any grievances regarding the



payment of gratuity is to be redressed by approaching the statutory authorities under the Tamil Nadu Co-operative Societies Act. Once, the Management has chosen to constitute a separate scheme and implement the scheme through its bylaws, which was approved by the Registrar of Co-operative Societies under the Act, then the grievances are to be redressed under the provisions of the Act and the General Act namely the Gratuity Act would not be applicable at all. In other words, the provision of the payment of Gratuity Act is exempted as Section 79 unambiguously stated that "a registered society not being an establishment to which the payment of Gratuity Act, 1972, applies. Therefore, when a separate scheme is implemented under Section 79 of the Tamil Nadu Co-operative Societies Act, the payment of Gratuity Act, 1972 would not be applicable to the employees of the Tamil Nadu Co-operative Societies Act. Thus, the jurisdiction of the competent authority under the payment of Gratuity Act is ousted. The grievances, if any, to the employees are to be redressed through the Tamil Nadu Co-operative Societies Act. Tamil Nadu Co-operative Societies Act provides mechanism for redressal of grievance, more specifically, Section 153 of the Co-operative Societies Act provides revision and the Regional Joint Registrars are empowered to adjudicate the same and pass orders on merits and in accordance with law.

9. Section 154 provides review and therefore all such grievances regarding the payment of Gratuity is to be redressed by the employees of the Co-operative Society by filing a revision under Section 153 of the Co-operative Society Act and the first respondent authority under the payment of Gratuity Act has no jurisdiction to entertain any W.P.Nos.29696 of 2016, W.P.Nos. 11971 to 11973 of 2013 and W.P.Nos. 26882 to 26884 of 2016 application as his jurisdiction has been ousted on account of fact that the Section 79 of the Tamil Nadu Co-operative Societies Act was implemented by the writ petitioner/management.

10. Under these circumstances, the grievances of the writ petitioner is to be redressed by filing an appropriate application before the competent authority under the Tamil Nadu Co-operative Societies Act. This Court, in view of the fact that the first respondent has no jurisdiction, is not inclined to decide the merits of this case. The second respondent employees are at liberty to approach the competent authority under the provision of the Tamil Nadu Cooperative Societies Act for redressal of their grievances. In the event of



filing any such revision petition, the competent authority shall entertain the writ petition and decide the same on merits and in accordance with law.

11. With these observations, the writ petitions stand allowed. No costs. Connected miscellaneous petitions are closed. "

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9. In view of the facts and circumstances, this Court is of the considered opinion that the petitioner Bank has implemented Special Gratuity Scheme in its by-law, which was duly approved by the Registrar of the Co-operative Society under the Tamil Nadu Co-operative Societies Act and pursuant to the said scheme, the gratuity has also been settled in favour of the employees. Therefore, they are not entitled to claim any amount over and above the claim already settled in consonance with the scheme, which is in force in the petitioner's bank.

10. Accordingly, the order impugned passed in P.G.Nos.215 to 225 and 236 dated 27.03.2019 passed by the first respondent is quashed and the writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)

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To

The Controlling Authority Under Payment of Gratuity Act/
Deputy Commissioner of Labour,
O/o. Joint Commissioner of Labour, Madurai-600 002.

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-20761[F]
dated 25/04/2022)

+1 CC to M/s.SPL.GP. (SR-21464[F] dated 26/04/2022)

W.P.(MD)Nos.11086 to 11097 of 2019

and

**W.M.P (MD) Nos .8445, 8447, 8449, 8451, 8453, 8455, 8457, 8459, 8461,
8463, 8465 and 8467 of 2019**

22.04.2022

SP (CO)

GC (07.06.2022) 6P 4C

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