



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:27.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)Nos.16915 to 16955 of 2021

and WMP (MD)Nos.13867,13816,13819,

13853,13854,13822,13824,13827,13828,13830,

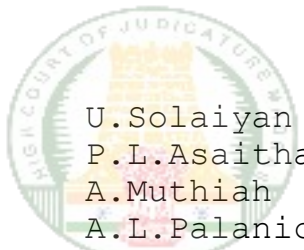
13831,13833,13835,13836,13837,13826,13829,13840,13841,13851,13852,
13811, 13812, 13842, 13843,13815,13818, 13844,13845,13820, 13821,
13823, 13825, 13838,13839, 13832,13834,13846,13847,13848,13849,
13855,13856, 13813,13814,13857,13859,13869,13872,13817, 13850,13878,
13879,13882,13883,13858,13860,13861,13863,13868,13870, 13876, 13877,
13884, 13885, 13888, 13889, 13871, 13874,13886,13887, 13862, 13864,
13865,13866, 13873, 13875, 13880, 13881,13893 and 13894 of 2021

The Management
Sri Nachammai Cotton Mills Ltd
Chettinad,
Karaikudi 630 102
Sivagangai District. ... Petitioner in all WPs

Vs.

1.The Controlling authority
Under the Payment of Gratuity Act
(Deputy Commissioner of Labour)
Madurai. ...1st Respondent in all WPs

2.S.Kumar	...2 nd Respondent in WP(MD)No.16915 of 2021
M.Chellaiah	...2 nd Respondent in WP(MD)No.16916 of 2021
S. Venkadeswaran	...2 nd Respondent in WP(MD)No.16917 of 2021
N.Ramasamy	...2 nd Respondent in WP(MD)No.16918 of 2021
S.Rajamani	...2 nd Respondent in WP(MD)No.16919 of 2021
M. Shanmugam	...2 nd Respondent in WP(MD)No.16920 of 2021
S.Letchumanan	...2 nd Respondent in WP(MD)No.16921 of 2021
M.Thangavel	...2 nd Respondent in WP(MD)No.16922 of 2021
S.Jayachandran	...2 nd Respondent in WP(MD)No.16923 of 2021
R.Arumugam	...2 nd Respondent in WP(MD)No.16924 of 2021
R.Kannan	...2 nd Respondent in WP(MD)No.16925 of 2021
R.M.Karunakaran	...2 nd Respondent in WP(MD)No.16926 of 2021
S.Seenivasan	...2 nd Respondent in WP(MD)No.16927 of 2021
S. Ganesan	...2 nd Respondent in WP(MD)No.16928 of 2021
S.Arulanand	...2 nd Respondent in WP(MD)No.16929 of 2021
A.Karuppiah	...2 nd Respondent in WP(MD)No.16930 of 2021
R. Vadivel	...2 nd Respondent in WP(MD)No.16931 of 2021
P.L.Udayappan	...2 nd Respondent in WP(MD)No.16932 of 2021
C.A.Subbiah	...2 nd Respondent in WP(MD)No.16933 of 2021
B. Adaikkan	...2 nd Respondent in WP(MD)No.16934 of 2021



U.Solaiyan	...2 nd	Respondent in WP (MD) No.16935 of 2021
P.L.Asaithambi	...2 nd	Respondent in WP (MD) No.16936 of 2021
A.Muthiah	...2 nd	Respondent in WP (MD) No.16937 of 2021
A.L.Palanichamy	...2 nd	Respondent in WP (MD) No.16938 of 2021
A.Palanivelu	...2 nd	Respondent in WP (MD) No.16939 of 2021
S.Anandakumar	...2 nd	Respondent in WP (MD) No.16940 of 2021
M.Ramasamy	...2 nd	Respondent in WP (MD) No.16941 of 2021
M.Muthuraman	...2 nd	Respondent in WP (MD) No.16942 of 2021
S.Kumar	...2 nd	Respondent in WP (MD) No.16943 of 2021
U.Palaniappan	...2 nd	Respondent in WP (MD) No.16944 of 2021
S.Saravanan	...2 nd	Respondent in WP (MD) No.16945 of 2021
A.R.Meenakshi Sundaram	...2 nd	Respondent in WP (MD) No.16946 of 2021
A.L.Chinnasamy	...2 nd	Respondent in WP (MD) No.16947 of 2021
C.T.Chidambaram	...2 nd	Respondent in WP (MD) No.16948 of 2021
P.R.Udayappan	...2 nd	Respondent in WP (MD) No.16949 of 2021
V.R.Murugesan	...2 nd	Respondent in WP (MD) No.16950 of 2021
S.P.Nagarajan	...2 nd	Respondent in WP (MD) No.16951 of 2021
S.Veeramuthu	...2 nd	Respondent in WP (MD) No.16952 of 2021
R.Selvaraj	...2 nd	Respondent in WP (MD) No.16953 of 2021
K.Loganathan	...2 nd	Respondent in WP (MD) NO.16954 of 2021
K.Karuppiah	...2 nd	Respondent in WP (MD) NO.16955 of 2021

COMMON PRAYER: These Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, or any other appropriate writ, order or direction against the order of the 1st respondent passed in P.G.I.A No.293/2019 to P.G.I.A No.335/2019 dated. 05.05.2021 received on 22.07.2021 in the nature of writ calling for the records on the file of the respondents and quash the same.

In all W.Ps

For Petitioner : Mr.V.O.S.Kalaiselvam

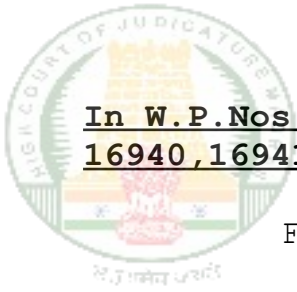
For Respondent No.2 : Mr.S.Bharathy Kannan

In WP (MD) Nos.16915,16918,16919 and 16948 to 16954 of 2021.

For Respondent No.1: Mr.M.Ramesh, Govt. Advocate

In W.P.Nos. 16916,16920 to 16923,16926, 16930 to 16932 and 16937 of 2021

For Respondent No.1 : Mr.A.K.Manikkam, Spl. G.P



**In W.P.Nos. 16917,16924,16925,16927,16933 to 16936,
16940,16941 and 16943 of 2021**

For Respondent No.1 : Mr.N.Sathishkumar, AGP

**In WP(MD).Nos.16928,16929,16938,16939,
16942,16944 to 16947 and 16955 of 2021**

For Respondents No.1 : Mr.D.Sadiq Raja, AGP.

COMMON ORDER

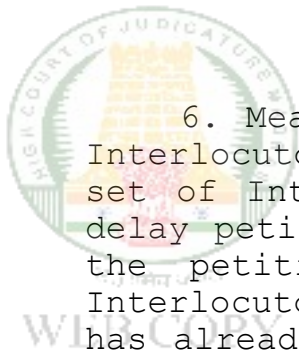
The writ petitions are filed challenging the order passed by the Deputy Commissioner of Labour/Controlling authority under the Payment of Gratuity Act.

2. The writ petitioner is the management Sri Nachammai Cotton Mills Limited.

3.The learned counsel for the petitioner strenuously contended that the demand of the workmen were completely settled pursuant to the award passed by the labour Court in I.D.No.44/2011 etc.

4.The learned counsel for the management made a submission that based on the issues raised between the parties before the labour Court, the management had deposited the compensation amount as well as the gratuity amount before the labour Court and the said amount in entirety had been withdrawn by the workmen concerned along with interest. Thus, the management is not liable to pay any sum to the workmen in respect of their services rendered with the writ petitioner management.

5. While so, the respondents workmen filed a petition under the Payment of Gratuity Act, before the controlling authority on the ground that the management has settled the compensation amount and not paid the gratuity amount. The said amount of compensation is paid in lieu of reinstatement of the workmen. The labour Court award has been interpreted by the workmen by stating that the said amount is paid by way of compensation in lieu of the reinstatement of the workmen and therefore, they are entitled for gratuity under the provisions of the Payment of Gratuity Act. Along with the said petition, a condone delay petition was also filed to condone the delay in filing the petition under the Payment of Gratuity Act. The condone delay petition was taken up for hearing and the controlling authority condoned the delay and the main petitions were numbered and are in the process of enquiry before the controlling authority/Deputy Commissioner of Labour.

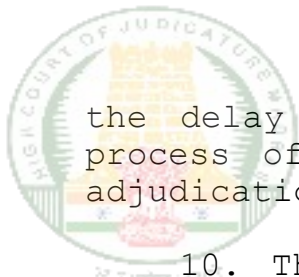


6. Meanwhile, the writ petitioner management filed two sets of Interlocutory Applications before the controlling authority and one set of Interlocutory Application are filed to dismiss the condone delay petition filed by the workmen to condone the delay in filing the petition claiming gratuity amount. As far as the said Interlocutory Applications are concerned, the controlling authority has already condoned the delay and the main petitions are numbered and in the process of enquiry and therefore, those filed by the petitioners became irrelevant and no further adjudication needs to be taken.

7. Another set of Interlocutory applications are filed by the writ petitioner management with a prayer to dismiss the gratuity petitions filed by the workmen. As far as the said petitions are concerned, the controlling authority in the impugned order made a categorical finding that none of the parties have filed any document to establish regarding the nature of award passed and the clear finding of the controlling authority in the impugned order reveals that both the writ petitioner management and the workmen had not established their claim by marking the relevant documents. The controlling authority further made a finding that all such issues are to be decided only after following the original award passed by the labour Court and other consequential proceedings and in the absence of those documents, the controlling authority may not be in a position to form an opinion and take a decision on the gratuity petition.

8. The learned counsel for the respondent workmen made a submission that Form 'L' has already been submitted under Rule 8(1) under the Payment of Gratuity Rules, which was already submitted before the management on 24.01.2019. Therefore, appropriate form under the provisions of the rule has already been placed before the management. All these aspects are to be adjudicated. Even the controlling authority in the impugned order has categorically stated that only after verification of all the original documents including the labour Court award and subsequent proceedings, an opinion can be formed for the purpose of deciding the petitions filed by the workmen on the ground that the management failed to pay the gratuity amount and paid the compensation in lieu of the reinstatement of the workmen.

9. The writ petitioner is of an opinion that no due is to be paid to the workmen and as per the award, the entire compensation as well as the gratuity amount has been deposited, which was withdrawn. This being the facts and circumstances, the order passed in Interlocutory applications are insufficient to form an opinion by the High Court in writ proceedings under Article 226 of the Constitution of India, more so, the controlling authority has made a categorical finding that the parties have not produced the relevant documents for the purpose of adjudication and form an opinion. It



the delay was already condoned and the main petition is in the process of enquiry and the parties are also participated in the adjudication.

10. This being the factum, the writ petitioner management as well as the respondent workmen are at liberty to furnish all the relevant documents enabling the controlling authority to adjudicate the issues on merits and in accordance with law. The writ petitioner management is also at liberty to raise all the grounds raised in these petitions before the controlling authority along with the supportive documents and all other relevant materials. The controlling authority/first respondent is directed to adjudicate the issues on merits and in accordance with law and by affording an opportunity to all the parties and decide the same as expeditiously as possible. As far as the impugned order is concerned, one set of Interlocutory applications filed to dismiss the condone delay petition filed by the workmen became infructuous and the other set of Interlocutory application, the writ petitioner management has not filed all the relevant documents. Though the learned counsel for the petitioner made a submission that the documents are filed now, this Court has to consider that the main gratuity petition has already been numbered and is in the process of enquiry and therefore, the writ petitioner management would not be prejudiced even if they participate in the process of enquiry by furnishing all the relevant documents for completing the adjudication. Under these circumstances, keeping these writ petitions pending would cause prejudice to the parties and therefore, the respective parties are at liberty to file their respective documents and contest their cases before the controlling authority in the manner known to law.

11. In view of the above, this Court do not find any infirmity in respect of the orders passed by the controlling authority in P.G.I.A.Nos.293/2019 to 335/2019, dated 05.05.2021 and accordingly, these writ petitions stand dismissed. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

RR

To

1.The Controlling authority
Under the Payment of Gratuity Act
(Deputy Commissioner of Labour)

<https://hcservices.madurais.gov.in/hcservices/>



+1 CC to M/s.SPL.GP. (SR-22112,22959[F] dated 28/04/2022)

+1 CC to M/s.V.O.S. KALAISELVAN, Advocate (SR-22187[F] dated 28/04/2022)

+1 CC to M/s.S.BHARATHY KANNAN, Advocate (SR-22775[F] dated 29/04/2022)

W.P.(MD)Nos.16915 to 16955 of 2021
27.04.2022

RK(10/06/2022) 6P 5C