



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.01.2022**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P.(MD)Nos.3133 to 3146 of 2018

and

W.M.P.(MD)Nos.3294 to 3321 of 2018

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The Management,
Karur District Cooperative Spinning Mills P. Ltd.,
Malaikovilur,
Aravakuruchi Taluk,
Karur District - 639 109.

...Petitioner in all WPs

/Vs./

The Appellate Authority, Joint Commissioner of Labour (Gratuity),
Khajamiyan Street, Mannarpuram,
Tiruchirapalli - 20

The Controlling Authority,
Assistant Commissioner of Labour (Gratuity),
No.84, Nehruji Nagar, 1st Street,
Dindigul

...1st and 2nd Respondents in
WP(MD).3133 to 3146 of 2018

M.Arjunan

...3rd Respondent in WP(MD).3133/2018

R.Karuppasamy

...3rd Respondent in WP(MD).3134/2018

R.Bommuraj

...3rd Respondent in WP(MD).3135/2018

V.Vishwanathan (Died).

...3rd Respondent in WP(MD).3136/2018

Velan

Saraswathi

Ratha

Nithya

Saravanan

(R4 to R8 are Impleaded Vide Court order
Dated 09.12.2021 in WPM(MD).8748/2019
in WP(MD).3136/2018)

... 4th to 8th Respondents in
WP(MD).3136/2018



P.Chandrasekaran

...3rd Respondent in WP (MD) .3137/2018

K.Palanisamy

...3rd Respondent in WP (MD) .3138/2018

T.Rajesh

...3rd Respondent in WP (MD) .3139/2018

Tmt.Muniammal

...3rd Respondent in WP (MD) .3140/2018

D.Chitrarasu

...3rd Respondent in WP (MD) .3141/2018

P.Nallathambi

...3rd Respondent in WP (MD) .3142/2018

S.Ramesh

...3rd Respondent in WP (MD) .3143/2018

N.Arjunan

...3rd Respondent in WP (MD) .3144/2018

S.Duraisamy (Died)

Muniyammal

Chandrasekar

Chandra

Indra

Ramaayi

(R4 to R8 are Impleaded Vide Court Order Dated
09.12.2021 in WMP (MD) No.8747 of 2019)

... 4th to 8th Respondents in
WP (MD) .3145/2018

N.Shivashanmugam

... 3rd Respondent in WP (MD) .3146/2018

Prayer in WP (MD) Nos.3133 to 3146 of 2018

Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the entire records relating to order of 1st Respondent passed in PG.A.Nos.54 to 67 of 2017 respectively dated 11.10.2017 and quash the same.



In all WPs:

For Petitioner : Mr.K.Rajmohan
for Mr.S.Deenadhayalan
For R1 & R2 : Mr.A.K.Manikkam
Special Government Pleader
For R3 : Mr.A.Hariharan

COMMON ORDER

This matter was heard at length on 21.12.2021. Upon conclusion of submissions, it was suggested that some quietus be found, insofar as the matter is hanging fire for the last three decades without the employees having seen the colour of the coin till date. The following order was thus passed on 21.12.2021:

"Heard the learned counsel at length.

2. Mr.Rajmohan, learned counsel for the petitioner Mill seeks some time to obtain instructions in writing in regard to whether the petitioner Mill is inclined to settle the liability towards gratuity for the period from 01.01.1992 to 01.07.2003 without reference to the legal submissions made.

*3. List on **03.01.2022.**"*

2.Today, Mr.K.Rajmohan, learned counsel for the petitioner circulates an affidavit duly executed by the official liquidator (in charge) of the Karur District Cooperative Spinning Mills Private Limited, wherein, after narrating the facts at issue, a decision has been arrived at to settle the liability towards gratuity for the period 01.01.1992 to 01.07.2003.

3.This decision finds acceptance by the learned counsel for the employees as well, barring the case of the employee in WP.(MD) No.3146 of 2018, in whose case the facts stand on a different footing and shall be adverted to shortly.

4.In WP.(MD)No.3136 of 2018 and 3145 of 2018, the employees have passed away and the legal heirs have been brought on record. These parties stand on the same footing as all other private respondents barring the respondents in W.P.(MD)No.3146 of 2018.

5.The contents of common affidavit dated 03.01.2022 are extracted herein below:-

COMMON AFFIDAVIT FILED ON BEHALF OF THE PETITIONER

1. Mrs R Radha wife of Mr Ramesh, Hindu, aged about 47 years, having office at C/o Assistant Director of



Handlooms and Textiles, Thittasala Main Road, V.V.G.Nagar, Vengamedu, Karur-6. do hereby solemnly affirm and sincerely state as follows:-

1. I am the Official Liquidator (in-charge) of the Petitioner/Mill, namely, Karur District Cooperative Spinning Mills P. Ltd. As such, I am well acquainted with the facts and circumstances of the case from records and personal knowledge. The Affidavits filed along with the Writ Petitions may be treated as part and parcel of this Affidavit.

2. I state that the above Writ Petitions are filed for a Writ of Certiorari calling for the entire records of the Orders passed in P.G.Appeals by the 1st Respondent

3. I state that the Petitioner/Mill was closed on 01.07.2003. At the time of closing, the Petitioner/Mill a scheme for Voluntary Retirement Scheme (VRS) was introduced for the permanent employees and accordingly 565 employees opted for the same and got their dues settled. Pursuant thereto, in accordance to Sec.137 of Act, 1983. Petitioner/Mill was recommended for winding up. Accordingly, vide proceedings Na.Ka.3237/2012/C dated 17.12.2012. Petitioner/Mill was wound up and accordingly Official Liquidator was appointed. It goes without saying that once an Official Liquidator is appointed, any claim in respect of monetary benefits as against the Petitioner/Mill shall be claimed only before the Official Liquidator. As a result, the impugned order passed by the 1st Respondent is legally unsustainable and it is in contravention to the provisions of the law.

4. I state that in order to give quietus to the dispute, the Petitioner/Mill is agreeable to pay the gratuity amount for a period from 01.01.1992 to 17.06.2003 which is in accordance to the order dated 17.06.2003 passed by the Authority under the Conferment of Permanent Status to Workmen, Act, 1981, conferring permanency to the 3 Respondent's in the said Writ Petitions.

For the reasons stated above, it is therefore prayed that this Hon'ble Court may be pleased to allow the Writ Petitions and pass such further or other order



(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and render justice.

For The Karur District Co.op
Sainning Mills Ltd.,
Karur."

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6.Learned counsel for the petitioner would submit that the amount of gratuity ordered by R2 on 28.01.2016 (whose order has been confirmed by R1 and which is presently impugned in the batch of writ petitions) has been deposited by R2 in 2016 itself.

7.Thus and without reference to the legal submissions of either side in the matter, there is a direction to R2 to pay over the amount of gratuity and interest as relatable to the period 01.01.1992 to 01.07.2003, within a period of three weeks from today. The balance of the principal deposited as well as interest, if any, accrued, will enure to the benefit of the petitioner Mill. These Writ Petitions are disposed in the aforesaid terms.

8.As far as W.P.(MD)No.3146 of 2018 is concerned, R3 was admittedly, a permanent employee and no case whatsoever has been made out, justifying intervention in the impugned orders. Learned counsel for the petitioner fairly accepts this position. W.P.(MD) No.3146 of 2018 is thus dismissed. The amount deposited by the Mill qua this petitioner shall be paid over to R3 within a period of three weeks from today. No costs. All connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

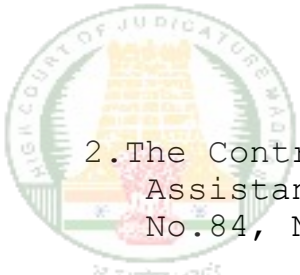
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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Appellate Authority,
Joint Commissioner of Labour (Gratuity),
Khajamiyan Street, Mannarpuram,
Tiruchirapalli - 20.

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



2.The Controlling Authority,
Assistant Commissioner of Labour (Gratuity),
No.84, Nehruji Nagar, 1st Street, Dindigul.

+1 CC to M/s.K.Rajeshwaran, Advocate (SR.No.482)

+2 CC to M/s.A.Hariharan, Advocate (SR.No.301 & SR.No.302)

+1CC to SPL.GP(SR.No.201)

W.P.(MD)Nos.3133 to 3146 of 2018
03.01.2022

MGJ(28.01.2022) 6P 7C