



W.P.No.10595 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

W.P.No.10595 of 2015

and

M.P.No.1 of 2015

The Management,
Cuddalore District Saravanabava Consumer
Co-operative Wholesale Stores,
Rep. by tis Managing Director,
No.3, Beach Raod,
Cuddalore - 607 001.

.... Petitioner

vs

1. The Joint Commissioner of Labour/
Appellant Authority under the payment of
Gratuity Act, 1972
Labour Welfare Building,
6th Floor, Teynampet,
Chennai - 600 006.

2. D.Shanmugam

.... Respondents

Writ Petition filed under Article 226 of the Constitution to issue a
Writ of Certiorari to call for the records relating to the order dated
22.12.2014 made in P.G.A. No.13/2014 on the file of the first respondent
herein and quash the same.



W.P.No.10595 of 2015

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For Petitioner : Mr.L.P.Shanmugasundaram

For Respondents : Mr.T.Arunkumar,
Additional Government Pleader for R1
Mr.C.B.Santhoshkumar for R2

ORDER

This writ petition has been filed challenging the order passed by the 1st respondent/Joint Commissioner of Labour(Appellate Authority) made in P.G.A. No.13/2014, in which, the appeal filed by the petitioner Management challenging the order of payment of gratuity amount along with interest, was dismissed.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the 1st respondent and the learned counsel appearing for the 2nd respondent.

3. Learned counsel for the petitioner would submit that the 2nd respondent was appointed as Clerk in the petitioner's Co-operative Stores on 24.05.1970 and subsequently, promoted as Grade I Clerk on 16.06.1989 and thereafter, promoted as Assistant on 19.12.1990 and retired from service on 31.05.2008. The 2nd respondent availed accommodation in the quarters of the petitioner-Stores and vacated the quarters only on



W.P.No.10595 of 2015

WEB COPY

23.08.2010 and the house rent was due to the tune of Rs.4,077.80. Hence, the payment of gratuity was withheld by the petitioner. However, now the learned counsel for the petitioner would submit that the only grievance of the petitioner is that since the Society is running in loss, the petitioner prays to waive the interest alone and that the petitioner is prepared to pay the principal amount to the 2nd respondent.

4. Considering the facts and circumstances of the case, the contention of the learned counsel for the petitioner, cannot be accepted. The Hon'ble Apex Court on several occasions had held that gratuity are no longer any bounty to be distributed to the employees on their retirement but are valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest. In the present case, the Controlling Authority ordered payment of gratuity to the 2nd respondent along with 10% interest. There is no provision in the Act, where it is provided that in the event of failure of the vacation of the quarters by the workman, the amount of gratuity can be withheld. Taking into consideration the dictum laid down by the Hon'ble Apex Court coupled with the fact that the 2nd respondent is stated to have put in service for more than 38 years and retired in the year 2008, this Court



W.P.No.10595 of 2015

is not inclined to waive the interest.

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5. Accordingly, the Writ Petition stands dismissed. The petitioner is directed to comply with the order of the first respondent within a period of eight weeks from the date of receipt of a copy of this order. It is stated that the principal amount has already been deposited by the petitioner. If that be the case, it is open to the second respondent to withdraw the same. No costs. The connected miscellaneous petition is closed.

14.02.2023

Index: Yes/No
Speaking/Non-speaking order
vsi

To

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J.NISHA BANU,J.

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