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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.06.2023

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THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

W.P.No. 17883 of 2013

And

M.P.No. 1 of 2013

The General Manager

Indian Bank

HRM Department

254-260 Avvai Shanmugam Salai

Royapettah

Chennai – 600 014.

... Petitioner

..Vs..

1. The Regional Labour Commissioner (Central)
(Appellate Authority under
Payment of Gratuity Act, 1972)
Haddows Road, Sastri Bhavan,
Chennai – 600 006.
2. The Assistant Labour Commissioner (Central)
(Controlling Authority under
Payment of Gratuity Act, 1972)
5 (II Floor) Lady Doak College Road
Chinna Chokkikulam,
Madurai 625 002.



3. Smt. S.Ramani

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari calling for the records of the first respondent in PG Appeal No. 40 of 2012 and quash its order dated 08.05.2013 confirming the order of the second respondent dated 30.03.2012 in PG Appln.No.10 of 2011.

For Petitioner :: Mr. G.Anand

For 3rd Respondent :: Mr.C.K.Chandrasekhar**ORDER**

This Writ Petition is filed by the Management challenging the order of the Regional Labuor Commissioner (Central) in confirming the order of the Assistant Labour Commissioner (Central).

2. The third respondent was an employee under the Management. She had obtained her appointment declaring that she belongs to Kondareddy community. She had put in about 35 years of service. The Management did not pay the gratuity to the petitioner invoking regulation 46(1) of the Indian



Bank Officers Service Regulations of 1979. As per this Regulations, if an employee is at fault, the bank is entitled to withhold the gratuity.

3. The fault on the part of the third respondent is that she had disclosed as if she belongs to Kondareddy community, when she did not belong to the said community. Her caste certificate was sent to verification and originally, it was found to be false.

4. A Writ Petition was filed challenging the Caste Verification Committee's Order. In the Writ Petition, the order was set aside and remanded to the State Level Scrutiny Committee for verification. For the reasons best known, the State Level Scrutiny Committee did not either confirm or reject the status of the petitioner as a person belonging to Kondareddy Community. Since the matter was pending before the the State Level Scrutiny Committee, Indian Bank did not pay the gratuity. The third respondent approached the second respondent for payment of gratuity. It was ordered that she will be entitled to a sum of Rs.7,99,722/-. This represents the gratuity of Rs.6,87,629/- together with interest of Rs.1,12,093. An appeal was preferred by the writ petitioner before the first respondent and it ended in dismissal.



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5. When the Writ Petition was taken up for hearing, Mr.C.K.Chandrasekhar, learned counsel appearing for the third respondent expressed a doubt that the third respondent might not be alive as on date.

6. Mr. G. Anand, learned counsel for the petitioner was requested to verify and he has stated that the third respondent died on 20.03.2022.

7. Today Mr.C.K.Chandrasekhar brought to the notice of this Court that the husband of the third respondent had predeceased him and her son had also passed away and that, she leaves behind only her daughter as the legal heir.

8. Mr. G.Anand, the learned counsel appearing for the petitioner records the facts that the daughter has made a claim for death cum retirement benefits.

9. When the third respondent having passed away, the question of verification of her caste status does not arise because the proceedings stand



abated. What remains is whether the legal heir of the third respondent will be entitled to the payment as per the Scheme of Indian Bank or as per the statute. I feel, in the interest of justice, the better option should be available to the legal heirs of the third respondent.

10. Mr. G.Anand, learned counsel for the petitioner passed across a memo of calculation. It shows that the gratuity payable as per the Act, seems to be beneficial than the Scheme of the Indian Bank. Therefore, there will be a direction as follows:-

(i) The writ petitioner shall pay difference of amount between Rs.7,42,549.50 and Rs.6,87,629/-; and

(ii) The balance amount shall carry interest at the rate of 10% per annum.

(iii) The daughter of the third respondent, on production of proof shall approach the gratuity authorities as well as to the Indian Bank and shall be entitled to a sum of Rs.7,99,722/- together with accrued interest if any from the second respondent and to the difference payable as per the Act, together with interest from the writ petitioner.



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V. LAKSHMINARAYANAN, J.,

vsg

11. With the above direction, this Writ Petition stands dismissed.

No costs. Consequently, connected Miscellaneous Petition is closed.

21.06.2023

vsg

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

To

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