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W.P.Nos.15744 and 15745 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.15744 and 15745 of 2016

And

W.M.P.Nos.13671 and 13672 of 2016

The Correspondent
C S I Polytechnic College
Yercaud Road
Salem – 636 007.

... Petitioner in both the W.Ps.

Vs.

1.The Appellate Authority
Under Payment of Gratuity Act Cum
Joint Commissioner of Labour,
Coimbatore,
Office of the Joint Commissioner of Labour,
Coimbatore – 641 108.

2.The Controlling Authority
(Payment of Gratuity Act Cum Assistant
Commissioner of Labour)
Office of Deputy Commissioner of Labour,
Salem. ... Respondents in both the W.Ps.

3.D.Joseph Stanislaus (Deceased)

4.Alex Dominic Padeep
(R4 substituted as LR of deceased
third respondent vide order dated
04.07.2023 made in WMP.465/2022
in WP.15744/2016 by MDIJ) ... Respondents in
W.P.15744/2016



W.P.Nos.15744 and 15745 of 2016

WEB COPY

3.D.Gnana Prakasam

... Respondent in W.P.15745/2023

Common Prayer:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for entire records relating to the order dated 05.02.2016 in A.G.A.Case Nos.67 and 64 of 2015 respectively, from the file of the first respondent and also the order dated 10.06.2015 and 05.06.2015 respectively, in P.G.Case Nos.60 and 59 of 2013 respectively, from the file of the second respondent, quash the same and forebear the respondents 1 and 2 from disbursing the amount deposited by the writ petitioner to the credit of the P.G.Case Nos.60 and 59 of 2013 respectively, on the file of the second respondent.

For Petitioner : Mr.Shivakumaran
For Respondents : No Appearance

COMMON ORDER

The petitioner has filed these writ petitions seeking issuance of Writ of Certiorarified Mandamus calling for entire records relating to the order dated 05.02.2016 in A.G.A.Case Nos.67 and 64 of 2015 respectively, from the file of the first respondent and also the order



W.P.Nos.15744 and 15745 of 2016

dated 10.06.2015 and 05.06.2015 respectively, in P.G.Case Nos.60 and 59 of 2013 respectively, from the file of the second respondent, quash the same and forebear the respondents 1 and 2 from disbursing the amount deposited by the writ petitioner to the credit of the P.G.Case Nos.60 and 59 of 2013 respectively, on the file of the second respondent.

2.Since the issue involved in these writ petitions are one and the same, they are heard together and disposed of by way of a common order.

3.The case of the petitioner is that the respective third respondents were appointed as Laboratory Attender on temporary basis and Assistant respectively in the petitioner Institution on 23.06.1986 and 06.01.1992 respectively and they were superannuated from service on 25.08.2009 and 06.03.2007 respectively. Thereafter, they submitted applications dated 30.02.2012 asking for payment of gratuity vide Form I of the Payment of Gratuity Act to the petitioner and since there was no response, the respective third respondent filed P.G.Case Nos.60 and 59 of 2013 respectively, under Section 4 of the Payment of Gratuity



W.P.Nos.15744 and 15745 of 2016

Act, before the second respondent.

WEB COPY

4.The further case of the petitioner is that the second respondent allowed the applications in P.G.Case Nos.60 and 59 of 2013 respectively, and directed the petitioner to pay a sum of Rs.1,31,299/- and Rs.73,558/- along with 10% simple interest from 26.09.2009 and 07.04.2007 respectively till the date of realization to the respective third respondent. Aggrieved by the same, the petitioner filed A.G.A.Case Nos.67 and 64 of 2015 respectively, before the first respondent and the first respondent vide order dated 05.02.2016 reduced the amount and the date from which interest has to be given from Rs.1,31,299/- to Rs.1,14,447/- along with 10% simple interest from 31.01.2010 instead of 26.09.2009 (W.P.No.15744 of 2016) and reduced the amount from Rs.73,558/- to Rs.35,238/- (W.P.No.15745 of 2016) respectively, and confirmed the order of the second respondent in other aspects. Challenging the same, the petitioner has filed these writ petitions.

5.The learned counsel appearing for the petitioner submitted that the respective third respondents are not entitled for any gratuity amount, however, the original Authority as well as the appellate



W.P.Nos.15744 and 15745 of 2016

Authority, without considering the factual aspects properly, arrived at a conclusion that the respective third respondents are entitled for gratuity and awarded the aforesaid amount which is not sustainable one.

6.Though the name of the learned counsel who entered appearance on behalf of the respective third respondent appeared in the cause list, today, when the matter is taken up for consideration, there is no representation for the third respondent. Considering the pendency of the writ petition, this Court is inclined to proceed with the case and decide the same based on the materials available on record.

7.The facts in the present case is not in dispute. The employment of the respective third respondents in the petitioner Institution is not in dispute. Admittedly, the respective third respondents were appointed as Laboratory Attender on temporary basis and Assistant respectively in the petitioner Institution on 23.06.1986 and 06.01.1992 respectively and they were superannuated from service on 25.08.2009 and 06.03.2007 respectively. Thereafter for non payment of gratuity amount, they



W.P.Nos.15744 and 15745 of 2016

filed P.G.Case Nos.60 and 59 of 2013 respectively, under Section 4 of the Payment of Gratuity Act, before the second respondent.

8.The second respondent allowed the applications in P.G.Case Nos.60 and 59 of 2013 respectively, and directed the petitioner to pay a sum of Rs.1,31,299/- and Rs.73,558/- along with 10% simple interest from 26.09.2009 and 07.04.2007 respectively till the date of realization to the respective third respondent. Aggrieved by the same, the petitioner filed A.G.A.Case Nos.67 and 64 of 2015 respectively, before the first respondent and the first respondent vide order dated 05.02.2016 reduced the amount and the date from which interest has to be given from Rs.1,31,299/- to Rs.1,14,447/- along with 10% simple interest from 31.01.2010 instead of 26.09.2009 (W.P.No.15744 of 2016) and reduced the amount from Rs.73,558/- to Rs.35,238/- (W.P.No.15745 of 2016) respectively, and confirmed the order of the second respondent in other aspects.

9.This Court cannot re-appreciate the factual aspects unless the impugned orders suffer irregularity and are perverse. Hence, this Court is not inclined to interfere with the concurrent findings rendered by the respondents 1 and 2. Hence, the prayer sought for



W.P.Nos.15744 and 15745 of 2016

in these writ petitions cannot be granted.

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10. These writ petitions are dismissed. The petitioner is directed to pay the gratuity amount, as ordered by the first respondent in A.G.A. Case Nos. 67 and 64 of 2015 respectively, dated 05.02.2016, to the fourth respondent in W.P. 15744 of 2016 (since the third respondent has died) and to the third respondent in W.P. 15745 of 2016, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

11.07.2023

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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Joint Commissioner of Labour,
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Coimbatore – 641 108.

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(Payment of Gratuity Act Cum Assistant
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W.P.Nos.15744 and 15745 of 2016

Office of Deputy Commissioner of Labour,
Salem.

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M.DHANDAPANI,J.
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W.P.Nos.15744 and 15745 of 2016
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WEB COPY



W.P.Nos.15744 and 15745 of 2016

11.07.2023