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WP.No.11693 of 2018

In the High Court of Judicature at Madras

Dated : 04.9.2023

Coram :

The Honourable Mr.Justice M.DHANDAPANI

Writ Petition No.11693 of 2018
& WMP.No.13664 of 2018

The Zonal Manager, UCO
Bank, Zonal Office, Chennai-1.

...Petitioner

Vs

1.The Deputy Chief Labour Commissioner
(Central), Appellate Authority under the
Payment of Gratuity Act, No.26,
Haddows Road, Sastri Bhavan, Chennai-6.

2.The Assistant Labour Commissioner
(Central), Original Authority under the
Payment of Gratuity Act, Haddows Road,
Sastri Bhavan, Chennai-6.

3.Mr.L.Ramalingam

...Respondents

Prayer: under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of respondents 1 and 2 and quash the order dated 23.3.2018 in G.A.No. 20/2017 on the file of the first respondent confirming the order dated 04.7.2017 in G.A.No.2/2015 passed by the second respondent.



WP.No.11693 of 2018

For Petitioner : Mr.Srinath Sridevan, SC for
Ms.Aishwarya S.Nathan

For R1 & R2 : No appearance

For R3 : Mr.V.Elangovan

ORDER

This is a petition filed by the petitioner seeking to quash the order dated 23.3.2018 passed by the first respondent in G.A.No.20 of 2017 confirming the order dated 04.7.2017 passed by the second respondent in G.A.No.2 of 2015.

2. The facts leading to filing of this case are as follows :

(i) The third respondent joined in Purasawalkam branch of the petitioner bank as a Daftari-cum-Cash Peon in 1976. At the time of joining, he produced the community certificate dated 04.2.1976 issued by the Tahsildar, Purasawalkam Perambur Taluk as belonging to Hindu Kurumans Community. His services were made permanent on 24.2.1977. Pursuant to the guidelines of the Ministry of Finance, Government of India, he was called upon to issue a fresh community certificate. Even after proceedings



WP.No.11693 of 2018

WEB COPY

were initiated due to the failure of the third respondent in producing the fresh community certificate, he did not produce the same.

(ii) Instead of producing the fresh community certificate, the third respondent chose to file W.P.No.10023 of 1998. During the pendency of the said writ petition, the third respondent attained the age of superannuation 31.7.2013.

(iii) After attaining the age of superannuation, he sought for payment of terminal benefits. However, the petitioner withheld the gratuity amount on account of his failure to produce the community certificate. Thereafter, the third respondent filed G.A.No.2 of 2015 before the second respondent. However, the second respondent allowed the said application on 04.7.2017 directing the petitioner to pay a sum of Rs.6,16,420/- towards gratuity together with 10% simple interest from the date, on which, it fell due till date of payment.

(iv) Challenging the order dated 04.7.2017, the petitioner filed an appeal before the first respondent and it was dismissed by the impugned order. Aggrieved by that, the petitioner is before this Court.



WP.No.11693 of 2018

WEB COPY

3. On 03.5.2018, when the matter came up for admission, in WMP.No.13664 of 2018, this Court granted an order of interim stay.

4. The learned Senior counsel appearing for the petitioner submits that the writ petition in WP.No.10023 of 1998 filed by the third respondent came to be dismissed by a Division Bench of this Court vide order dated 14.10.2019 on the ground that the third respondent could not have any grievance over the initiation of action, as he had to satisfy the Authority concerned and that he attained the age of superannuation and also directed the authority to find out the authenticity of the certificate produced by the third respondent, pursuant to which, the Tamil Nadu state level Scrutiny Committee vide order dated 11.04.2022 found out that the certificate produced by the third respondent is a fabricated one. Aggrieved over the same, the third respondent filed another writ petition in W.P.No.13792 of 2022, wherein the third respondent obtained an interim order of *status quo* in W.M.P.No.13084 of 2022 vide order dated 02.06.2022. He further submits that the decision rendered by the appellate authority is contrary to



WP.No.11693 of 2018

the facts recorded by the Division Bench of this Court in WP.No.10023 of 1998. He further averred that if the third respondent succeeds in W.P.No.13792 of 2022, he would be entitled for gratuity.

5. The learned counsel for the third respondent has no serious objection for the said order being passed.

6. Heard the learned Senior Counsel appearing on behalf of the petitioner and the learned counsel appearing for third respondent. Though respondents 1 and 2 were served and their names printed in the cause list, none appears on behalf of them.

7. In view of the submission made by the learned Senior counsel for the petitioner and the third respondent, this Court, without expressing any opinion on the merits of the case is of the view that, the order passed by the appellate authority in G.A.No.20 of 2017 dated 23.03.2018 confirming the award passed by the original authority is subject to the result of the writ petition pending before this Court in W.P.No.13792 of 2022. However, it is



WP.No.11693 of 2018

WEB COPY

made clear that the third respondent is entitled for compensation, only when the Division Bench of this Court in W.P.No.13792 of 2022 held that the certificate produced before the petitioner management is genuine.

8. With the above observation, this writ petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

04.9.2023

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Index : Yes (or) No

Neutral Citation : Yes (or) No

Speaking Order : Yes (or) No



WP.No.11693 of 2018

WEB COPY

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WEB COPY



WP.No.11693 of 2018

M.DHANDAPANI,J

rap

WP.No.11693 of 2018&
WMP.No.13664 of 2018

04.9.2023