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W.P.Nos.19376 and 18219 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.19376 and 18219 of 2023

And

W.M.P.Nos.18650 and 17412 of 2023

The Director/HR,
NLC India Limited,
Corporate Office,
Neyveli – 607 801.

... Petitioner in both the W.Ps.

Vs.

1.The Controlling Authority
under the Payment of Gratuity Act, 1972,
(The Assistant Commissioner of Labour – Central),
DA – 2, BSNL Staff Quarters,
Jaya Nagar, Reddiarpalayam,
Puducherry – 605 010.

2.The Controlling Authority
under the Payment of Gratuity Act, 1972,
(The Assistant Commissioner of Labour – Central),
No.4, Haddows Road,
Shastri Bhavan,
Chennai – 600 006.

3.Shri.R.Sivakumar

... Respondents in both the W.Ps.

Shri.R.Kasinathan (Deceased)

4.K.Selvi

5.K.Nithyaraj

6.K.Jayasudha

7.K.Kavitha

... Respondents in



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W.P.19376/2023

4.Shri.A.Ramalingam

... Respondent in W.P.18219/2023

Common Prayer:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the order of the second respondent passed in Gratuity Application Nos.M.48/PG(03)/2013/PDY/M.48/6/2023/B3 and M.48/PG(04)/2013/PDY/M.48/7/2023/B3 respectively, dated 25.01.2023 and quash the same.

For Petitioner : Mr.N.Nithianandam
in both the W.Ps.
For Respondent : Mr.V.Ajoy Khose
for R4 to R7 in W.P.No.19376/2023
for R4 in W.P.No.18219/2023

COMMON ORDER

The petitioner has filed these writ petitions seeking issuance of Writ of Certiorari calling for the records relating to the order of the second respondent passed in Gratuity Application Nos.M.48/PG(03)/2013/PDY/M.48/6/2023/B3 and M.48/PG(04)/2013/PDY/M.48/7/2023/B3 respectively, dated 25.01.2023 and to quash the same.

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



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common order.

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3.The learned counsel appearing for the petitioner submitted that the employees filed application for Gratuity under Section 7 of the Payment of Gratuity Act, 1972 before the second respondent, however, the concerned Authority did not pass orders while he was in the post and passed orders after he was transferred to some other place. Hence, the impugned orders are liable to be set aside.

4.Admittedly, the Controlling Authority under the Payment of Gratuity Act, 1972, has to exercise his power while he is in station. Once he is transferred to some other place, he do not have any power to carry the bundle and pass orders. On the sole ground, the order of the second respondent passed in Gratuity Application Nos.M.48/PG(03)/2013/PDY/M.48/6/2023/B3 and M.48/PG(04)/2013/PDY/M.48/7/2023/B3 respectively, dated 25.01.2023 are set aside and the matter is remanded back to the second respondent for fresh consideration. The second respondent is directed to hear the petitioner as well as the private respondents and pass appropriate orders, within a period of one month from the date of receipt of a copy of this order.



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5.The writ petitions are accordingly disposed of. No costs.
Consequently, the connected miscellaneous petitions are closed.

18.07.2023

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

- 1.The Controlling Authority
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- 2.The Controlling Authority
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(The Assistant Commissioner of Labour – Central),
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M.DHANDAPANI,J.
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