



W.P.No.12964 of 2019
and W.M.P.No.13115 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2023

CORAM

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

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and W.M.P.No.13115 of 2019

The Managing Director,
The Vellore District Central Cooperative Bank Limited,
Vellore - 632 001
Vellore District. ... Petitioner

Vs.

C.Umapathy ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the order of the Appellate Authority, (Under the Payment of Gratuity Act, 1972), the Additional Commissioner of Labour, Teynampet, Chennai - 6, in P.G.A.No.115/2016 dated 19.03.2018 and to quash the same as illegal.

For Petitioner : Mr.L.P.Shanmugasundaram

For Respondent : No appearance



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ORDER

This petition is challenging the orders dated 19.03.2018 in P.G.A.No.115/2016 passed by the Additional Commissioner of Labour, Teynampet, Chennai, as the Appellate Authority for payment of gratuity. The respondent in the appeal in P.G.A.No.115/2016 has challenged the orders dated 19.04.2016 of the Assistant Commissioner of Labour, Vellore in P.G.No.21/2016 filed by the the respondent.

2.The respondent Umapathy joined the petitioner's Bank on 02.02.1972 and when he attained the age of retirement on 30.06.2010, he was relieved from service subject to the final orders in the charge sheet issued to him. Subsequently on 11.01.2011, the final order in the disciplinary proceedings was issued in which a punishment of three increments reduction was inflicted upon him. Accordingly, on 22.06.2011, a sum of Rs.7,10,240/- was given to him as gratuity amount. However, the aggrieved respondent Umapathy approached the Controlling Authority under Gratuity Payment Act, 1972 and filed



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P.G.No.21/2016 stating that the gratuity amount of Rs.7,10,240/- was given to him after 257 days delay due to which his loan with Employees Cooperative Credit and Profit Society also took an additional burden of interest of Rs.23,455/- thereby causing a financial loss of Rs.90,016/- (interest @ 18% for 257 days on Rs.7,10,240/-) and Rs.23,455/- totalling to Rs.1,13,471/- which the petitioner has to pay him. This petition was dismissed by the Controlling Authority. The respondent went on an appeal to the Appellate Authority against this order of the Controlling Authority in P.G.A.No.115/2016 which set aside the orders of the Controlling Authority. The Appellate Authority while setting aside the orders of the Controlling Authority cited Section 7(3) (A) of the Payment of Gratuity Act, 1972 which provides for payment of interest on belated payment of gratuity. This petition by the Bank is against this order.

3.The learned counsel for the petitioner Bank would contend that the delay in payment of gratuity was only due to the pending disciplinary action and that once the disciplinary proceedings got over and the final order was passed the payment of gratuity was initiated. His



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further contention was that the respondent had never appealed against the punishment nor against the stoppage of terminal benefits intimated to him at the time of retirement. He also argued that the Section 7(3) (A) of the Act, is clear as to when the interest can be paid and that when the petitioner Bank was not the reason for the delay the demand for interest payment was baseless. Therefore, they prayed for setting aside the orders in P.G.A.No.115/2016.

4.The issue in dispute is whether interest has to be paid for the belated gratuity payment or not. The Controlling Authority has spelt out clearly as to why the delay occurred. The respondent has not disputed the fact that there was no appeal against the question of punishment at the time of the final order and also that there was no objection by him, at the time of his retirement against the pending disciplinary action. This aspect was not at all discussed by the Appellate Authority. The Appellate Authority had reproduced the relevant portion of Section 7(3) (A) but failed to understand the contents appropriately. The relevant portion of Section 7(3) (A) of the Act reads as



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"7(3) (A) - If the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long-term deposits, as that Government may, by notification specify:

Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the controlling authority for the delayed payment on this ground."

5. In this context, it is clear that the delay was not on the part of the petitioner employers and it was purely dependent on the conclusion of the disciplinary proceedings against the respondent. Moreover, the respondent did not go legally against the question of punishment which he could have done. In these circumstances, the order of the Appellate Authority has no merit in it.



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6.In the result, the Writ Petition is allowed. No costs.

Consequently, connected Writ Miscellaneous Petition is closed.

- i. the orders dated 19.03.2018 in P.G.A.No.115/2016 passed by the Appellate Authority, the Additional Commissioner of Labour, Teynampet, Chennai - 6, is set aside, and
- ii. the orders dated 19.04.2016 in P.G.No.21/2016 passed by the Controlling Authority, the Assistant Commissioner of Labour, Vellore, is confirmed.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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