



W.P.No.16875 of 2019
and W.M.P.Nos.16463 & 25980 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.No.16875 of 2019
and W.M.P.Nos.16463 & 25980 of 2019

The Managing Director,
The Vellore District Central Cooperative Bank Ltd.,
Officers Line, Vellore - 632 001,
Vellore District.

... Petitioner

Vs.

1.V.M.Sivaraj

2.Appellate Authority Officers /
Additional Commissioner of Labour,
Payment of Gratuity Act,
Teynampet, Chennai - 600 006.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the orders dated 14.09.2018 in P.G.A.No.155/2017 passed by the second respondent and quash the same.

For Petitioner	: Mr.L.P.Shanmugasundaram
For R1	: Mr.Balan Haridas
For R2	: Mr.D.Gopal, GA



W.P.No.16875 of 2019
and W.M.P.Nos.16463 & 25980 of 2019

WEB COPY

ORDER

The writ petitioner, the Managing Director, Vellore District Central Cooperative Bank Limited has filed the present writ petition challenging the orders dated 14.09.2018 passed by the second respondent in P.G.A.No.155/2017.

2. The first respondent V.M.Sivaraj was working for the writ petitioner Management as an Assistant Administrative Officer. He attained superannuation on 30.06.2001. Since he was not paid gratuity amount and earned leave salary, he filed writ petitions before this Court in W.P.Nos.38410/2003 & 36803/2004. W.P.No.38410/2003 was allowed and the writ petitioner was directed to pay the terminal benefits due to the first respondent subject to the outcome of the surcharge proceedings pending against the employee. In W.P.No.36803/2004, this Court directed the writ petitioner Management to proceed further with the surcharge proceedings. Thereafter, the Management paid gratuity to the first respondent during the year 2012. The first respondent filed an application in P.G.No.98/2016 before the Assistant Commissioner of



W.P.No.16875 of 2019
and W.M.P.Nos.16463 & 25980 of 2019

WEB COPY

Labour, Vellore, praying for payment of interest amount for the delayed payment of gratuity to him. The Assistant Commissioner of Labour, Vellore vide his orders dated 27.03.2017 dismissed the said application on the ground that the gratuity amount was paid subsequent to the direction of this Court in W.P.No.38410/2003 and that there is no provision in the Payment of Gratuity Act, 1972 for payment of interest. This order was challenged by the first respondent before the second respondent / Appellate Authority / Additional Commissioner of Labour under the Payment of Gratuity Act. The Appellate Authority vide her orders dated 14.09.2018 set aside the orders passed by the Assistant Commissioner of Labour, Vellore, by directing the writ petitioner Management to pay interest for the delayed payment of the gratuity amount. It is further held that as per Section 7(3)(A) of the Payment of Gratuity Act, the first respondent is entitled to get statutory interest for the delayed payment of gratuity. Aggrieved over the same, the present writ petition is filed.



W.P.No.16875 of 2019
and W.M.P.Nos.16463 & 25980 of 2019

WEB COPY

3. Mr.L.P.Shanmugasundaram, learned counsel for the writ petitioner would contend that the orders passed by the Assistant Commissioner of Labour, Vellore is perfectly in order since the Assistant Commissioner of Labour had taken into account the reason for delay in making payment by the writ petitioner Management. According to him, since the surcharge proceedings were pending, they did not pay the gratuity amount to the first respondent. He would therefore contend that the order of the second respondent is erroneous.

4. Per contra, Mr.Balan Haridas, learned counsel for the first respondent would contend that the second respondent / Appellate Authority, Additional Commissioner of Labour, Chennai had rightly come to a conclusion that the first respondent is liable to pay interest for the delayed payment of gratuity as per Section 7(3)(A) of the Act and there is no reason for this Court to interfere with the same. It is further contended that since no appeal was filed against the orders passed in W.P.Nos.38410/2003 & 36803/2004, it has become final.



W.P.No.16875 of 2019
and W.M.P.Nos.16463 & 25980 of 2019

WEB COPY

5. A perusal of the orders passed in W.P.Nos.38410/2003 & 36803/2004 shows that no disciplinary proceedings were initiated against the first respondent and he was also permitted to retire on 30.06.2001 on attaining the age of superannuation. The only proceedings which were initiated against the first respondent was in respect of the enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 by way of surcharge proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983. It was further held that the writ petitioner Management has no right to withhold the terminal benefits due to the first respondent. In view of the observation made by this Court in W.P.Nos.38410/2003 & 36803/2004 the employee is entitled to get statutory interest at the rate of 10% from the date of default and hence, I do not see any reason to interfere with the orders passed by the second respondent / Appellate Authority.



WEB COPY



W.P.No.16875 of 2019
and W.M.P.Nos.16463 & 25980 of 2019

6. Accordingly, this Writ Petition is dismissed. No costs.

Consequently, connected Writ Miscellaneous Petitions are closed.

13.12.2023

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

To

Appellate Authority Officers /
Additional Commissioner of Labour,
Payment of Gratuity Act,
Teynampet, Chennai - 600 006.



WEB COPY



W.P.No.16875 of 2019
and W.M.P.Nos.16463 & 25980 of 2019

R. HEMALATHA, J.

mtl

W.P.No.16875 of 2019
and W.M.P.Nos.16463 & 25980 of 2019

13.12.2023