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W.P.No.21894 of 2021
and W.M.P.Nos.23098 & 23100 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2023

CORAM

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

W.P.No.21894 of 2021
and
W.M.P.Nos.23098 & 23100 of 2021

The Senior Regional Manager,
Tamil Nadu Civil Supplies Corporation,
Chennai South Region,
No.9, Conron Smith Road,
Gopalapuram, Chennai - 86

... Petitioner

Vs.

1.The Additional Commissioner of Labour,
Chennai, DMS Compound,
6th Floor, Teynampet,
Chennai - 06
(Appellate Authority as under the
Payment of the Gratuity Act, 1972)

2.The Joint Commissioner of Labour - I, Chennai,
6th Floor, Teynampet,
Chennai - 06
(Controlling Authority as under the
Payment of the Gratuity Act, 1972)



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3.P.Narayanasamy

... 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 passed by the second respondent, the Joint Commissioner of Labour - I, Chennai in P.G.No.112/2016 dated 16.04.2018 and the orders of the first respondent, the Additional Commissioner of Labour, Chennai in P.G.A.No.14/2019 dated 02.01.2020 and quash the same.

For Petitioner : Dr.K.Thirugnanam
For RR1 & 2 : Ms.P.Vijayadevi, GA
R3 : No appearance

ORDER

Challenging the Award dated 02.01.2020 in P.G.A.No.14/2019 passed by the first respondent, Additional Commissioner of Labour, Chennai, the present writ petition is filed by the Tamil Nadu Civil Supplies Corporation, Chennai South Region represented by its Senior Regional Manager.



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2.The third respondent, P.Narayanasamy was working for the writ petitioner Management since 23.10.1974 and he retired on 31.10.2015 on attaining superannuation. His last drawn monthly salary was Rs.42,766/- and since he was not paid the gratuity amount of Rs.9,86,907/-, he filed a petition in P.G.No.112/2016 before the Joint Commissioner of Labour - I, Chennai. The present writ petitioner filed a detailed counter in the above said petition contending that the petitioner had not put in 40 years of service as claimed by him and he was placed under suspension from 01.04.1980 to 10.10.1980 and this has not been recorded in his Service Register and that they are in the process of tracing out the records. The Joint Commissioner of Labour - I, Chennai, after analysing the oral and documentary evidence adduced on both sides allowed the petition on the ground that the writ petitioner Management had not adduced any evidence to substantiate any of their contentions. Thereafter, the second respondent authority went on to calculate the amount payable to the workman as detailed hereunder :



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1.	Total years of service of the workman	23.10.1974 to 31.01.2015 (40 years 3 months and 8 days i.e. determined as 40 years)
2.	Last drawn salary	Rs.42,766/-
3.	Gratuity amount	$\frac{\text{Rs.42,766/-} \times 15 \times 40}{26} = \text{Rs.9,86,907/-}$
4.	Gratuity amount already paid to the workman	Rs.9,64,747/-
5.	Balance gratuity amount to be paid to the workman	Rs.22,160/-

It was further held that since the provident fund was not paid within a stipulated period under the Payment of the Gratuity Act, it should be paid together with interest at the rate of 10% per annum on Rs.9,86,907/- for the period from 31.01.2015 to 08.10.2016 which comes around Rs.1,66,647/-. The writ petitioner Management was also directed to pay 10% interest for the difference amount of Rs.22,160/- from 08.10.2016 till the date of full settlement. Aggrieved over the orders passed by the second respondent, the writ petitioner Management filed an appeal in P.G.A.No.14/2019 before the



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first respondent. The first respondent vide its orders dated 02.01.2020 dismissed the appeal filed by the Management and confirmed the orders passed by the second respondent.

3. Dr.K.Thirugnanam, learned counsel for the writ petitioner would contend that the third respondent did not attend duty for the period from 17.06.1975 to 17.02.1976, 16.03.1976 to 03.04.1976 and 01.04.1980 to 10.10.1980 and therefore, he had not actually put in 40 years of service. His further contention is that since Tamilnadu Civil Supplies Corporation was split into several units, they were unable to trace the Service Register of the third respondent.

4. Mr.B.Haribabu, learned counsel though entered appearance on behalf of the third respondent / workman, he did not appear before this Court.

5. It is pertinent to point out that in the counter filed before the second respondent authority, the writ petitioner Management had stated that



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the third respondent was under suspension from 01.04.1980 to 10.10.1980.

On the contrary, during the course of trial, one of the officials of the writ petitioner Management filed a proof affidavit stating that the third respondent unauthorisedly absented himself from 17.06.1975 to 17.02.1976, 16.03.1976 to 03.04.1976 and 01.04.1980 to 10.10.1980. In fact this has not been pleaded in the counter. In any event, no documentary evidence was adduced by the Management in this regard. Both the respondents 1 & 2 considered the oral and documentary evidence adduced on both sides and had passed well reasoned orders. Therefore, I do not see any reason to interfere with the same.

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

Consequently, connected Writ Miscellaneous Petitions are closed.

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



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