



W.P.No.38937 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.24203, 24206, 24207, 24209, 24211, 24213, 24216, 24217, 24218,
24219, 24392, 24402, 24400, 24397, 24398, 24394, 24405, 24415, 24417,
24418, 24419, 24423, 24425, 24429, 24422, 24427, 24424, 24430, 24431,
24433, 24448, 24449, 24450, 24452, 24455, 24456, 24505, 24506, 24508,
24510, 24511, 24513, 24675, 24677, 24679, 24678, 24680, 24681, 24912,
24914, 24916, 24919, 24920 and 24922 of 2022

W.P.N.24203 of 2022:

The Management
Bhadra International India Private Limited,
No.6, First Street,
B V Nagar, Pazhavanthangal,
Chennai 600 061,
Rep by its Authorised Signatory.

... Petitioner

Vs.

1. THE ASST. LABOUR COMMISSIONER,
(CENTRAL) CHENNAI AND The Controlling
Authority under the Payment of Gratuity Act, 1972
Office of the Deputy Chief Labour,
Commissioner (Central),
4 Haddows Road, Shastri Bhavan, Chennai-600 006.

2 . Muthu Manikandan S

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari Calling for the records of the 1st respondent in Gratuity Application No. 46 of 2021/ B3 and quash its orders dated 13.06.2022.

For Petitioners : Mr.Ragunathan
For M/s.T.S.Gopalan and Co.
(in all the petitions)
For Respondent : Mr.C.Kulanthaivel, SPC R1
(in all the petitions)
R2- No appearance

COMMON ORDER

Since the issues involved in the all the case are one and the same and therefore, the same are disposed of by way of this common order.

2. All the petitions have been filed seeking to call for the records of the Gratuity applications and to quash the orders dated 13.06.2022.

3. It is the case of the petitioners that the petitioners are engaged in the business of providing comprehensive cargo and ground handling services for both passenger flights and cargo freighters in some of the international airports managed by the International Airport authority of India including Chennai Airport. The petitioners, in the course of their business, employed



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numerous persons including the private respondents for its operation. The private respondents moved the controlling authority under the Payment of Gratuity Act by making a claim for gratuity. Thereby, 56 applications were filed before the concerned authority.

4. It is the further case of the petitioner that in the meantime, these private respondents joined the services of its competitor and thereby, completely affecting the business of the petitioner. Hence, the petitioner initiated disciplinary proceedings against the private respondents and all of them were awarded with punishment of dismissal. Thereafter, the gratuity payable to the private respondents was also forfeited as envisaged under Section 4(6) of the Payment of Gratuity Act.

5. The grievance of the petitioner is that the first respondent did not provide sufficient opportunity to the petitioner to establish the conduct of the private respondents and the impugned orders were passed in a hasty manner. Aggrieved by the same, all these writ petitions have been filed before this Court.



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6. The learned counsel for the petitioners submitted that the impugned order passed by the first respondent is in violation of principles of natural justice and hence, the same deserves to be interfered with. Learned counsel further submitted that the first respondent did not apply its mind even to the pleadings that were made by the respective parties and cyclo style type of orders were passed for each claim wherein only the name of the claimant and the amount were modified. It is further submitted that even though there is an alternative remedy of appeal provided under the Payment of Gratuity Act, since order has been passed in violation of principles of natural justice, the present petitions have been preferred.

7. Per contra, the learned Senior Panel Counsel for the first respondent submitted that the impugned order that has been filed by the petitioners is only Form-R and preceding this Form, a detailed order was passed by the first respondent by assigning reasons and sufficient opportunity was given to the petitioner as well as the private. Learned counsel further submitted that if the claim made by the private respondents has been allowed by assigning reasons, the petitioner cannot be permitted to straight away maintain the writ petitions before this Court in lieu of an efficacious alternative remedy



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available under Section 7(7) of the Payment of Gratuity Act. Learned counsel, therefore, sought for dismissal of all these writ petitions.

8. In reply on the above submission, learned counsel for the petitioner submitted that the petitioner was never served with the detailed order which is now shown before this Court and what was served on the petitioner was only Form-R, which has been filed in the typed set of papers. If the said order copy may be provided to the petitioner so as to enable the petitioner to prefer the appeal.

9. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials available on record.

10. Taking into consideration of the facts and circumstances of the case and as rightly pointed out by the learned counsel on either side that there is an effective alternative remedy available under Section 7(7) of the Payment of Gratuity Act as against the impugned order, this Court, permit the petitioners to file an appeal before the appellate authority under Section 7(7) of the Payment of Gratuity Act within a period of two weeks from the date of receipt



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of a copy of the order passed by the first respondent. Upon receipt of such appeal, the appellate authority shall decide the issue independently, after providing opportunity to the petitioner as well as the second respondent, on merits and in accordance with law within a period of four weeks thereafter. The first respondent is directed to provide a copy of the order which has been provided before this Court to the petitioners within a period of one month from the date of receipt of a copy of this order so as to enable the petitioners to file the appeal. The period during which this petition was pending before this Court shall be eschewed for the purpose of computation of the period of limitation.

11. With the above directions, all the writ petitions are disposed of. No costs.

11.07.2023

Index : Yes / No
Speaking order / Non speaking order
Netrual Citation Case : Yes / No

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To
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M.DHANDAPANI, J.

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