IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.26264, 26266, 26268, 26273, 26515, 26525, 26529, 26537, 26543, 26546 and 26549 of 2023
and
W.M.P.Nos.25666, 25670, 25672, 25673, 25674, 25680, 25681, 25921, 25928, 25929, 25930, 25931, 25934, 25935, 25941, 25943, 25948, 25950, 25953 and 25955 of 2023

<u>W.P.No.26264 of 2023:</u>

M/s.Maduranthagam Co-operative Sugar
Mills Limited,
Represented by its Managing Director,
D.Jawahar Prasad Raj,
Having Office at Padalam Post,
Maduranthagam Taluk,
Chengalpet District. ... Petitioner

Vs.

1. Thiru Madurai Veeran

2. The Additional Commissioner of Labour,
(Appellate Authority under the Payment of
Gratuity Act, 1972),
DMS Compound,
6th Floor, Teynampet, Chennai - 600 018.

3. The Deputy Commissioner of Labour (DCL 2),
(Controlling Authority under the Payment of
Gratuity Act, 1972),
DMS Compound,
6th Floor, Teynampet,
Chennai - 600 018. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records of the second respondent / Appellate Authority dated 08.06.2022 made in P.G.A.No.07 of 2020 confirming the common order of the third respondent / Controlling Authority dated 29.08.2019 made in P.G.No.166 of 2017 and to quash the same with consequential direction to the third respondent to refund the gratuity amount of Rs.2,38,706/- relating to the first respondent deposited by the petitioner Sugar Mill within the time stipulated by this Court.

For Petitioner (in all W.Ps)	:	Mr.Haja Nazirudin Senior Counsel for Mr.P.Hari Babu

C O M M O N O R D E R

Since the issue raised in all these Writ Petitions is one and the same, with the consent of the learned counsel appearing for both sides, all these Writ Petitions are heard together and are disposed of by this common order.

2. The case of the petitioner is that the petitioner / Sugar Mill is a Society registered under the Tamil Nadu Co-operative Societies Act, 1983 and it is a seasonal industry involved in the business of producing sugar by crushing the sugarcane and it takes place only during the season as and when the sugarcane is available for crushing. The said crushing activity would depend upon the monsoon and the cultivation of sugarcane in the area and the supply of sugarcanes from the agriculturists. The respondents / workmen in all the Writ Petitions were initially engaged as N.M.R. on daily wage workers in the petitioner / Mill as per exigency of work from 2001 to 2011. Subsequently, they got retired from service on attaining the age of superannuation and as per the last drawn pay of the workmen per month and their eligibility period of service for gratuity is calculated and gratuity amount was paid to them on the date of superannuation at the rate of 7 days wages for each season. Thereafter, the respondents / workmen have filed applications under Section 4(1) of the Payment of Gratuity Act, 1972, (in short 'the Act') before the third respondent for claiming gratuity amount and the third respondent / Controlling Authority allowed the said applications

and directed the petitioner / Mill to pay the gratuity amount for a period of 15 days wages for end of every completed year. Challenging the same, the petitioner / Mill preferred appeals under Section 7(7) of the Act before the second respondent, however, the same was rejected by the impugned order on the ground that there is no reason to interfere with the order passed by the Controlling Authority. Challenging the concurrent findings rendered by the Controlling Authority as well as the Appellate Authority, the above Writ Petitions have been filed before this Court.

3. The learned Senior Counsel appearing for the petitioner / Mill submitted that the respondents 2 and 3 have failed to consider the fact that the respondents / workmen were not in continuous service within the meaning of Clause (1) of Section 2A of the Payment of Gratuity Act, 1972 and that the labourers were not at all engaged for any period of one year or six months and they were worked only when there was requirement seasonally. The respondents 2 and 3 also failed to consider the fact that there was cessation of work during the period 2001 to 2011 due to

non-availability of sugarcanes and the Mill was revived only in the year 2012. The learned Senior Counsel further submits that even the petitioner / Mill had deposited the amount awarded by the Controlling Authority as a condition precedent for preferring the appeal before the second respondent, therefore the order passed by the second respondent in PGAs' is completely not taken into account the entire facts and circumstances.

4. I have considered the said submissions made by the learned Senior Counsel appearing for the petitioner / Mill and perused the materials placed before this Court.

5. Admittedly, the contesting respondents in the respective Writ Petitions were employed with the petitioner / Mill and they got retired, subsequently after rendering long years of service. Thereafter, the respondents / workmen claimed gratuity in terms of calculation made under Section 4(1) of the Act. The Controlling Authority allowed the applications filed by the workmen, against which, the petitioner / Mill preferred appeals

and the appeals were rejected. The issue raises in these Writ Petitions has already been dealt with by this Court in W.P.No.28325 of 2008 dated 07.02.2012 and the said order was put under challenge in W.A.No.254 of 2013, wherein the Division Bench of this Court had dismissed the same and passed the following order:

> "*7. The said finding rendered by the appellate authority which has been confirmed by the learned Single Judge of this Court, in our considered view does not require any interference. We are either unable to take a different view or we have been persuaded to take as such, without any materials placed before us.*
>
> *8. The appellate authority has held that the third respondent has put in 23 years of service and that there is no dispute regarding the last drawn wages. Therefore, the calculation made by the appellate authority in respect of the claim of the third respondent at Rs.58,478/- does not need any modification.*
>
> *9. Thus, we are of the considered view that no grounds, much less valid grounds have been raised to interfere with the order of the learned Single Judge and in fine, the writ appeal stands dismissed. Consequently,*

connected miscellaneous petition is closed. However, no order as to costs."

6. That apart, this Court has perused the circular dated 25.07.1990 wherein it is provided as follows:

".....

The unions functioning in the Co-operative and Public Sector sugar mills have been demanding that all the employees of the sugar mills should be paid gratuity at the rate of 15 days wages per year of service irrespective of the fact whether they retire as permanent employee or seasonal employees.

The issue was examined in detail in this office. Other than E.P.F., Gratuity is the only retirement benefit paid to the employees in the Sugar Industry. It has been decided to reward seasonal employees in Co-operative and Public Sector Sugar Mills, who have rendered long and unblemished service, by paying them the same rate of gratuity as applicable to the permanent employees.

It is hereby ordered that the employees of the Co-operative and Public Sector Sugar Mills, who retire as seasonal employee will be paid gratuity at the rate of 15

> *days wages per year of service provided they have put into minimum period of twenty years of service in the Mills. For purpose of computing twenty years of service, the service as N.M.R/Casual will not be counted. In respect of dismissed employees, gratuity will be paid in accordance with the provisions of the payment of Gratuity Act, 1972."*

7. On perusal of the circular, wherein it is provided that, though the employment provided to the respondents / workmen was a seasonal one they had been engaged during every season and had worked with the petitioner / Mill for more than twenty years, therefore the gratuity is the only retirement benefits paid to the employees in the Sugar Industry and as has been rightly pointed out in the circular dated 25.07.1990, the employees of the Co-operative and Public Sector Sugar Mills, who retired as seasonal employee will be paid gratuity at the rate of 15 days wages per year of service provided they have put into minimum period of twenty years of service in the Mills.

8. In view of the above, this Court is inclined to extend the very same benefit to the respondents / workmen herein also and it is made clear that the respondents / workmen are entitled for the gratuity amount as awarded by the Controlling Authority which was confirmed by the Appellate Authority.

9. Accordingly, these Writ Petitions stand dismissed. The respondents / workmen are at liberty to withdraw the amount deposited by the petitioner / Mill. No Costs. Consequently, connected Miscellaneous Petitions are closed.

12.09.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji

To

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M.DHANDAPANI, J.

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