



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2023

CORAM

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

W.P.Nos. 32639, 28750, 28747, 28761 & 28753 of 2018, 21800 of 2016, 19324, 19341, 19343, 19354, 19358, 19368, 19369, 19376, 19388, 19394, 19398 & 35052 of 2019 & 10394, 12573 & 12512 of 2020

and

W.M.P.Nos. 33583, 33578, 33601 & 33588 of 2018, 18797, 18798, 18817 to 18820, 18826 to 18829, 18833, 18834, 18836, 18851, 18848, 18860, 18862, 18873, 18874, 18881, 18882, 35835 & 35838 of 2019 & 12645, 12646, 15503, 15504, 15505, 15420, 15421 of 2020

W.P.No.32639 of 2018

The Managing Director,  
Dharmapuri Coop.Sugar Mills Ltd.,  
Jerthalav Post,  
Dharmapuri District. .

. Petitioner

Vs.

1. The Joint Commissioner of Labour,  
(Presently designated as Additional Commissioner of Labour)  
The Appellate Authority Under the Payment of Gratuity Act,  
Coimbatore-18.
2. The Assistant Commissioner of Labour,  
(Presently designated as Deputy Commissioner of Labour)  
The Controlling Authority under the Payment of Gratuity Act,  
Salem.



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- 3.A.Govindasawmy,
- 4.M.Perumal
- 5.P.Raaji
- 6.P.Selavthaal
- 7.C.Kamala
- 8.M.L.Perumal
- 9.M.Kuppan
- 10.N.Balakrishnan
- 11.K.P.Maariyappan
- 12.C.Chinnakolaar
- 13.M.Subramani
- 14.G.Murugesan

.. Respondents

**Prayer in W.P.No.32639 of 2018:** Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for records culminating in the order of first respondent dated 28.02.2018 made in PGA.No.37/2017 to PGA.No.48/2017 received by this management on 02.04.2018 and quash the same and consequently direct the respondents (1) & (2) to determine the entitlement of the respondents (3) to (14) as per the provisions of the Gratuity Act as well as the circular of the Director of Sugar issued with regard to the Gratuity benefits.

For petitioner  
(in all Petitions) : Mrs.G.Thilagavathi, Senior Counsel  
for Mr.R.Gopinath

For Respondents : Mr.S.John.J.Raja Singh,  
Additional Government Pleader  
for R1 & R2 (in all Petitions)

: Mrs.D.Geetha  
for R3 in W.P.Nos.28747 of 2018,19341, 19343,  
19354, 19358, 19368, 19369, 19376, 19388,  
19394, 19398 of 2019, 21800 of 2016  
& 12573 of 2020



for R4 to R8 in W.P.No.12573 of 2020  
for R4 to R10 in W.P.No.12512 of 2020

: Mr.K.Shanmuganathan  
for R3 to R5 in W.P.No.35052 of 2019

: Mr.Arun Anbumani  
for R3 in W.P.No.10394 of 2020

: Notice not ready for R3 in W.P.No.28750,  
28747, 28761, 28753 & 32639 of 2018

: No Appearance for R4 to R14  
in W.P.No.32639 of 2018

### **COMMON ORDER**

Though the orders under challenge have been passed on various dates, however, the issue involved in all Writ Petitions being one and the same, this Court is inclined to dispose of these Writ Petitions by way of this common order.

2. While few of the Writ Petitions have been filed challenging the orders of the Assistant Commissioner of Labour/Controlling Authority in granting full Gratuity Amount to the workmen at the rate of 15 days wages and interest and another set of Writ Petitions have been filed challenging the orders of the Joint Commissioner of Labour/Appellate authority in



confirming the same in respective Writ Petitions.

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3. For the sake of convenience, the petitioner in respective Writ Petitions is a Co-operative Sugar Mill hereinafter will be referred to as “Petitioner Mill”. The Respondents 3 to 14 in W.P.No.32639 of 2018 and the 3<sup>rd</sup> respondent in all other Writ Petitions will be referred to as “Workmen”.

4. It is the case of the Petitioner Mill that the workmen herein were engaged in the Petitioner Mill as casual labourers. Pursuant to their retirement from the services of the Petitioner Mill, they were settled with gratuity amount based on the continuous services rendered by them and in accordance with the Gratuity Act. However, subsequently, the workmen have approached the 2<sup>nd</sup> respondent/Controlling authority under the Gratuity Act by filing respective Claim Petitions seeking arrears of gratuity amount for the entire period of their services at the rate of 15 days wages, which petitions were allowed contrary to the provisions of Section 2A of the Gratuity Act by granting full gratuity amount to the workmen at the rate of 15 days wages and interest. Aggrieved by which, the petitioner had



preferred an Appeal before the 1<sup>st</sup> respondent/Appellate Authority, wherein the appellate authority had confirmed the order of the controlling authority.

Challenging the order of Controlling Authority as well as the Appellate Authority, the above Writ Petitions have been filed.

5. Learned Senior Counsel for the petitioner submitted that the petitioner mill is a seasonal establishment and the services of the workmen were utilized only during the seasonal period. As per the provisions of Section 2(A)(3) of the Payment of Gratuity Act, they are entitled only for the gratuity amount at the rate of seven days wages which was already settled by the Petitioner even at the time of their disengagement. The petitioner had filed elaborate counter affidavit along with a consolidated statement before the authority as to the number of working days during which the workmen were engaged with the petitioner industry, however, without considering the same, contrary to the provisions of Section 2A of the Gratuity Act, the impugned order had been passed by the controlling authority with a direction to the petitioner for payment of full gratuity amount at the rate of 15 days wages and interest.



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6. The grievance of the petitioner is that without properly appreciating the material and oral evidences and without adverting to the aforesaid facts, the Controlling Authority has passed the impugned order for payment of full gratuity amount with interest which clearly shows the non-application of mind while passing the said order. Aggrieved by the same, the petitioner had preferred an appeal as against the order of Controlling Authority before the Joint Commissioner/Appellate Authority by filing appropriate petitions, wherein, the Appellate Authority had confirmed the order of Controlling Authority. Since, the order passed by the Controlling authority itself is contrary to Section 2A of the Act, the same cannot be said be sustained. However, the petitioner had deposited the entire gratuity amount as ordered by the controlling authority to the credit of the respective applications filed by the workmen under the Act, except the amount of interest. Accordingly, he prays for allowing these Writ Petitions.

7. Per Contra, learned counsel for the private respondents/workmen submitted that though the petitioner claims the petitioner mill to be a seasonal establishment, however, no proof has been placed by the petitioner



in order to substantiate their claim except the consolidated statement of the workers engaged in the petitioner mill which is not sufficient to prove the order of the controlling authority to be unsustainable. The orders put to challenge have been passed only after elaborately discussing the above facts and relevant materials adduced by the petitioner as well as the workmen. Therefore, the orders under challenge cannot be found fault with. Accordingly, he prays for dismissal of these Writ Petitions.

8. This Court heard the learned counsel appearing on either side and perused the materials available on record.

9. The facts of the present case are not in dispute. Admittedly, the workmen were the employees of the petitioner mill and they retired from the services of the petitioner mill. Pursuant to their retirement, they were settled with the gratuity amount by the petitioner on the basis of their continuous services rendered by them. Subsequently, the workmen approached the authority under the Gratuity Act, claiming arrears of gratuity, wherein, they were granted full gratuity amount at the rate of 15 days wages with interest which has been confirmed by the 1<sup>st</sup>



respondent/Appellate Authority.

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10. It is the claim of the petitioner that the petitioner mill is only a seasonal establishment and therefore the workmen are entitled for gratuity amount only for the seasonal period during which they were engaged with the petitioner mill. However, it is seen from the materials available on record as also the impugned order of the 2<sup>nd</sup> respondent/fact finding authority, that the petitioner has not placed any materials to show that the petitioner mill is a seasonal establishment. In the absence of any material to show that the establishment is a seasonal establishment no finding could be rendered and the authority has passed a well reasoned order and in the absence of any perversity in the finding rendered by the fact finding authority, this Court under Article 226, cannot interfere with the impugned order of the fact finding authority. Hence, the relief sought for in this Writ Petition cannot be acceded to.

11. For the reasons aforesaid, these Writ Petitions are devoid on merits and are dismissed accordingly. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed. The amount



which has been deposited towards the gratuity payable shall be disbursed appropriately to the respective workmen.

**21.08.2023**

Index : Yes / No  
Speaking order / Non-speaking order  
Neutral Citation Case : Yes / No

NHS

**M.DHANDAPANI, J.**

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