



W.P.(MD) Nos.7619 and 8216 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) Nos.8216 and 7619 of 2020
and WMP (MD) Nos.7111 and 7628 of 2020

WP(MD) No.7619 /2020

C.Subbian

... Petitioner

-VS-

- 1.The District Collector,
Pudukottai District
Pudukottai
- 2.The Assistant Commissioner of Labour,
(Controlling Authority under the Payment of
Gratuity Act, 1972)
Office of the Deputy Commissioner of Labour,
Tiruchirappalli.
- 3.The Joint Registrar of Cooperative Societies,
Annavasal Salai
Pudukottai District
- 4.The Deputy Registrar of Cooperative Societies
Kamatchi Amman Kovil Street,
Aranthangi & Post & Taluk
Pudukottai District



W.P.(MD) Nos.7619 and 8216 2020

5.TA77, Okkur Primary Agriculture Cooperative Credit Society

Rep. By its President,
Okkur Village,
Perunthamarai Post
Avudaiyarkovil Taluk
Pudukottai District

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the 5th respondent/employer to deposit the balance gratuity amount of Rs.1,21,095/- along with 10% interest amount for the gratuity amount already paid and also present balance gratuity amount of Rs.1,21,095/- for the period from the eligible date 01.07.2010 that is after 30 days from the date of superannuation, Section 7(3) of Payment of Gratuity Act, 1972) to the date of deposit of the amount by the employer/5th respondent to the 2nd respondent as per the orders of the appellate tribunal in Pa.Ko.Mea.Mu.Va.No.53/2018 in its order dated 20.08.2019.

For Petitioner	:	Mr.K.Balasundaram
For Respondents	:	Mrs.K.Christy Theboral Additional Government Pleader for R1 to R4 Mr.P.Chandrabose for R5

WP(MD) No.8216/2020

The Management
TA77, Okkur Primary Agriculture Cooperative Credit Society
... Petitioner



W.P.(MD) Nos.7619 and 8216 2020

-VS-

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1.The Appellate Authority under the
Payment of Gratuity Act,
Tiruchirappalli 20
Tiruchirappalli District.

2.The Controlling Authority,
Payment of Gratuity Act
Office of Joint Commissioner of Labour,
Thiruchirappalli
Tiruchirappalli District.

3.C.Subbian

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records from the file of the 1st respondent herein in P.G.Appeal No.53/2018 dated 20.08.2019 and to quash the same and also direct the 3rd respondent to receive the difference in Gratuity amount of Rs.8,305/- (Rupees eight thousand three hundred and five only) without any interest.

For Petitioner : Mr.P.Chandrabose

For Respondents : Mrs.K.Christy Thebora for R1&R2
Additional Government Pleader
Mr.K.Baalasundaram for R3



W.P.(MD) Nos.7619 and 8216 2020

respondent to the 2nd respondent as per the orders of the appellate tribunal in Pa.Ko.Mea.Mu.Va.No.53/2018 in its order dated 20.08.2019.

4. For the sake of convenience, the petitioner in WP(MD) No. 8216/2020 is referred to as the Management and the petitioner in WP(MD) No.7619/2020 is referred to as the employee.

5. Management is a primary agricultural cooperative society registered under the Tamil Nadu Cooperative Societies Act, 1983. The employee is the Secretary of the management society. The employee filed an application before the second respondent controlling authority under the Payment of Gratuity Act (hereinafter referred to as 'the Act'). He has rendered service for 39 years from 15.04.1971 to 31.05.2010. His last drawn wages was Rs.19,422/- and he was eligible for gratuity of Rs. 4,36,995/-. The management paid a sum of Rs.2,57,000/- and the employee is entitled to claim the balance. The management disputed the employee's last drawn wages and stated that the management has paid Rs. 3,15,200/- as gratuity. To support their case, the management has filed a



W.P.(MD) Nos.7619 and 8216 2020

WEB COPY

document. The controlling authority vide its order dated 27.04.2018 rejected the claim of the employee on the ground that the employee has not put in eligible service and he is facing disciplinary proceedings and surcharge proceedings and hence, he is not entitled for gratuity, for which, the employee preferred an appeal before the appellate authority in PGA No. 53/2018. In the appeal, it is stated that the payment of gratuity is not applicable to the management society. The employee ought to have raised the dispute before the Joint Registrar of Cooperative Societies and not before the controlling authority. Finally the appellate authority concluded that the employee is entitled to receive the balance amount of Rs.1,21,095/- with interest at 10% as per Section 7(2) of the Act. Aggrieved by the same, the management and employee are before this Court with these petitions.

6. The learned counsel for the management would submit that for the disciplinary proceedings initiated against the employee, the management imposed a punishment for stoppage of increment for two years without cumulative effect, against which, the employee preferred an appeal before the appellate authority and the appellate authority modified the punishment



W.P.(MD) Nos.7619 and 8216 2020

and imposed a fine of Rs.10,000/- as cost, which is mentioned in the order the controlling authority. It is their case that in the appeal, the interest awarded by the authority is on the higher side and further the lapses committed by the employee and the loss sustained by the bank are not taken into consideration. It is their further case that the payment of gratuity has also been disbursed to the employee and hence, the balance amount and the interest are disputed by the management and hence they are before this Court.

7. The learned counsel for the employee would submit that though the original authority imposed a punishment and subsequently the punishment was modified by the appellate authority and in any event, there is no disciplinary proceedings pending against the employee and further considering the case of the employee, the appellate authority/first respondent allowed the appeal, which cannot be interfered with. However, the learned counsel would submit that this Court may fix a reasonable interest and pass appropriate orders.



W.P.(MD) Nos.7619 and 8216 2020

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8. Heard the learned counsel on both sides and perused the materials available on record.

9. The issue arises in the present writ petition is with regard to awarding interest. Admittedly, the original authority rejected the claim made by the employee without any discussion and by merely stating that the disciplinary authority has initiated proceedings against the employee. However, the said order has been rightly interfered with by the appellate authority and directed the management to pay the balance amount of Rs. 1,21,095/- and awarded interest for the payment of the gratuity already paid and the balance to be deposited.

10. Considering the facts and circumstances of the case, since the only issue is with regard to fixing the interest awarded by the appellate authority, this Court is inclined to reduce the interest from 10% to 4%. The management is directed to deposit 4% interest along with the balance gratuity amount. The interest shall be paid from the date of order passed by the original authority ie., 27.04.2018.



W.P.(MD) Nos.7619 and 8216 2020

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11. With the above directions, both the writ petitions are disposed of. No costs. Consequently connected Miscellaneous Petitions are closed.

23.01.2023

NCC : Yes/No
Index : Yes/No

RR

To

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Payment of Gratuity Act,
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Tiruchirappalli District.
- 2.The Controlling Authority,
Payment of Gratuity Act
Office of Joint Commissioner of Labour,
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W.P.(MD) Nos.7619 and 8216 2020

WEB COPY

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W.P.(MD) Nos.7619 and 8216 2020

M.DHANDAPANI, J.

RR

W.P.(MD) Nos. 7619 and 8216 of 2020

23.01.2023