



W.P.(MD)No. 8859 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED:31.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.8859 of 2020
and
W.M.P(MD)Nos.8118 and 8841 of 2020

M.Sambandasamy

... Petitioner

Vs.

- 1.The Appellate Authority/
The Joint Commissioner of Labour,
Tiruchirapalli-20.
- 2.The Controlling Authority/
The Deputy Commissioner of Labour,
Tiruchirapalli – 20.
- 3.The Controlling Authority,
The Assistant Commissioner of Labour,
Tiruchirapalli – 20.
- 4.The Managing Director,
The Thanjavur Central Cooperative Bank Ltd.,
Thanjavur.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order of the first respondent in PGA.26/2016 dated 08.05.2017 and quash the same as illegal and further, directing the fourth respondent to disburse the gratuity of Rs.208627/- payable to him with 10% interest per annum as stipulated in the Payment of Gratuity Act, 1972.



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For Petitioner : Mr.G.M.Xavier

For R-1 to R-3 : Mr.S.P.Maharajan,
Special Government Pleader

For R-4 : Mr.D.Shanmugaraja Sethupathi

ORDER

This writ petition has been filed to quash the impugned order passed by the first respondent in PGA.26/2016, dated 08.05.2017 and further, to direct the fourth respondent to disburse the gratuity of Rs.208627/- payable to the petitioner with 10% interest per annum as stipulated in the Payment of Gratuity Act, 1972.

2. The case of the petitioner is that the petitioner joined duty in the fourth respondent bank on 10.01.1963 as Assistant and worked for 38 years. Subsequently, in the year 1998, he was terminated from service due to the disciplinary action taken against him on the ground that he misappropriated the Society fund. Initially, the petitioner was placed under suspension and later, he was terminated from service. The termination order was challenged before the appellate authority before the second respondent. The second respondent also confirmed the termination order, vide proceedings, dated 17.06.2019. However, the fourth respondent did not pay the gratuity amount due to the



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petitioner towards the 38 years of service rendered by him. Therefore, the petitioner made an application before the third respondent for disbursement of gratuity. However, it was rejected vide order, dated 07.06.2016. Challenging the same, the petitioner has filed an appeal before the first respondent. However, the same was rejected vide the impugned order, dated 08.05.2017. Hence, challenging the same, the petitioner has filed this writ petition with the aforesaid prayer.

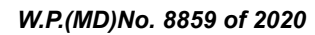
3. The learned counsel appearing for the petitioner would submit that the petitioner was not convicted by any Court of law but due to the disciplinary proceedings, he was terminated from service. He would further submit that the petitioner was not terminated for act of violation or moral turpitude and therefore, the fourth respondent ought to have disbursed the gratuity payable to the petitioner. Further, moral turpitude cannot be decided by the Controlling Authority and it has to be decided by a Criminal Court and therefore, the impugned order is liable to be set aside and hence, prays for allowing of this writ petition.

4. Per contra, the learned standing counsel appearing for the fourth respondent would submit that the petitioner was dismissed from service in



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pursuance of the disciplinary proceedings for having committed various irregularities involving moral turpitude. Challenging the same, the petitioner filed an appeal and the same was also dismissed. Therefore, the order of dismissal has become final. Subsequently, the petitioner made an application before the third respondent with a delay of 6430 days, seeking gratuity. However, the petitioner has not given any reason for filing the application with a huge delay. As per Rule 7 of the Payment of Gratuity(Central) Rules, the employee who is eligible for payment of gratuity under the Act, shall apply within thirty days from the date of eligibility of gratuity payable. Therefore, the application filed by the petitioner is barred by limitation. Further, the petitioner has not filed any application for condoning the delay as per Rule. Therefore, the third respondent dismissed the application on the ground that the petitioner is not entitled to get gratuity since he was dismissed from service for having committed financial irregularities. The appeal filed by the petitioner was also rightly dismissed by the first respondent. However, without challenging the order passed by the controlling authority ie., the third respondent, the petitioner has filed this writ petition, challenging the order passed by the appellate authority, which is not maintainable and hence, prays for dismissal of this writ petition.



6. Admittedly, for the various financial irregularities committed, the petitioner, who served in the fourth respondent bank was dismissed from service in the year 1988. Subsequently, in the year 2016, the petitioner made an application for payment of gratuity payable to him. The said application was dismissed by the Controlling Authority on merits and without going into the question of delay and laches on the ground that the petitioner is not entitled for gratuity since he was dismissed from service for having committed misappropriation of society fund. The said order was confirmed by the appellate authority in the appeal filed by the petitioner.

7. Admittedly, in catena of decisions, this Court has held that once the Controlling/Adjudicating Authority and Appellate Authority arrived at a conclusion based on facts, this Court cannot sit over the decision of the Appellate Authority unless any perversity or patent illegality or irrationality in the process was found . In the case on hand, after considering all the facts, the controlling authority has rightly rejected the request of the petitioner and the same was confirmed by the appellate authority also and therefore, there is no



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irregularity in the impugned order and the same does not warrant interference by this Court. Accordingly, this writ petition deserves to be dismissed.

8. In the result, this writ petition is dismissed. No Costs. Consequently, connected miscellaneous petitions are dismissed.

31.01.2023

PM

NCS:Yes/No

Index:Yes/No

Internet:Yes/No

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M.DHANDAPANI,J.

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