



W.P.(MD)No.8062 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:01.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.8062 of 2018
W.M.P(MD).No.7648 of 2018

The Director,
Gandhigram Institute of Rural Health and
Family Welfare Trust,
Soundaram Nagar,
Gandhigram Post,
Dindigul District.

... Petitioner

Vs.

- 1.The Joint Director of Labour/
Appellate Authority under the
Payment of Gratuity Act, 1972,
Gajamalai Nagar,
Trichy.
- 2.The Assistant Commissioner of Labour/
Controlling Authority under the
Payment of Gratuity Act, 1972,
Nehruji Nagar 1st Street,
Dindigul.

3.F.Nirmal Kumar David

... Respondents



W.P.(MD)No.8062 of 2018

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, call for the records of the second respondent in P.G.No.21 of 2014 dated 21.07.2015 as confirmed on appeal by the first respondent in P.G.Appeal No.20 of 2016 dated 20.11.2017 and quash the same.

For Petitioner : Mr.V.Karthikeyan
for Mr.V.Vijay Shankar

For Respondents : Mr.S.P.Maharajan
Special Government Pleader
for R1 and R2
Mr.D.Shanmugaraja Sethupathi
for R3

ORDER

This Writ Petition has been filed to call for the records pertaining to the order passed by the second respondent in P.G.No.21 of 2014 dated 21.07.2015 as confirmed on appeal by the first respondent in P.G.Appeal No.20 of 2016 dated 20.11.2017 and quash the same.



W.P.(MD)No.8062 of 2018

WEB COPY

2. The case of the petitioner is that the third respondent joined in the petitioner Trust on 06.06.1981 on consolidated pay and on 01.07.2004, he was appointed on regular basis under the Scheme of Central Training Institute which was sponsored by the Ministry of Health and Family Welfare, Government of India. He retired from service on 31.01.2014. He was paid gratuity for 9 ½ years of regular service. Thereafter, he made an application before the second respondent/Controlling Authority, claiming gratuity amount for the period when he worked as temporary employee in the petitioner Trust. However, the second respondent has passed an order directing the petitioner Trust to pay a sum of Rs.1,97,408/- to the third respondent along with interest at 10% per annum. Aggrieved by the same, the petitioner Trust, after depositing the said amount before the second respondent, has preferred an appeal before the first respondent/Appellate Authority. However, the first respondent has confirmed the order passed by the second respondent. Challenging the orders passed by the first and second respondent, the present Writ Petition has been filed.



W.P.(MD)No.8062 of 2018

WEB COPY

3. The learned counsel appearing for the petitioner would submit that the third respondent was given gratuity for 9 ½ years of service rendered by him. However, he has made an application before the second respondent claiming gratuity amount for the period when he worked as temporary employee in the petitioner Trust, without impleading the Ministry of Health and Family Welfare, Government of India and Life Insurance Corporation of India. As per the relevant Rules, he is not entitled for gratuity amount for the temporary service rendered by him. However, without considering the factual aspects, the second respondent has passed an order directing the petitioner Trust to pay a sum of Rs.1,97,408/- (Rupees One Lakh Ninety Seven Thousand Four Hundred and Eight only) to the third respondent along with interest at 10% per annum, as against which, the petitioner Trust preferred appeal before the first respondent. The petitioner Trust raised all the legal issues including lack of jurisdiction. But, the first respondent has confirmed the order of the second respondent vide its order dated 20.11.2017.



W.P.(MD)No.8062 of 2018

WEB COPY

4. The learned counsel appearing for the third respondent would submit that in a catena of judgments, this Court held that the seasonal employee or non-provisional employee is entitled for gratuity amount and the orders passed by the Controlling Authority and the Appellate Authority cannot be interfered with by this Court. Since the present writ petition is pending, the gratuity amount has not been disbursed to the third respondent.

5. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent.

6. The facts in the present case are not in dispute. Admittedly, the third respondent retired from service on 31.01.2014 and he made an application claiming gratuity amount before the Controlling Authority, against which, the petitioner Trust has also preferred an appeal before the Appellate Authority. The Controlling Authority and the Appellate Authority, after providing opportunity to the petitioner Trust and the third



W.P.(MD)No.8062 of 2018

WEB COPY

respondent, has passed orders in favour of the third respondent. Further, in the present case, no ground has been raised by the petitioner warranting interference of the well-considered decision of the Controlling Authority as well as the Appellate Authority. Hence, this Court cannot re-appreciate the facts under Article 226 of the Constitution of India and the prayer sought for in the present writ petition cannot be granted.

7. Accordingly, this Writ Petition is dismissed. No costs. Connected miscellaneous petition is closed.

01.03.2023

ssb
NCC:Yes/No
Index:Yes/No
Internet:Yes/No

To
1.The Joint Director of Labour/
Appellate Authority under the
Payment of Gratuity Act, 1972,
Gajamalai Nagar,
Trichy.

6/8



W.P.(MD)No.8062 of 2018

WEB COPY

2. The Assistant Commissioner of Labour/
Controlling Authority under the
Payment of Gratuity Act, 1972,
Nehruji Nagar 1st Street,
Dindigul.



WEB COPY



W.P.(MD)No.8062 of 2018

M.DHANDAPANI,J.

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W.P.(MD)No.8062 of 2018

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