



W.P(MD)No.15127 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **31.08.2023**

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.15127 of 2018
and W.M.P. (MD) No.13694 of 2018

The Senior Regional Manager,
Tamilnadu Civil Supplies Corporation,
Thiruvarur Region,
Mannargudi Road,
Thiruvarur.

...Petitioner

Vs.

1. The Joint Commissioner of Labour,
Trichy.

2. The Assistant Commissioner of Labour,
Office of the Assistant Commissioner of Labour,
Trichy.

3.S.Dhavasumuthu

....Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari or any other appropriate Writ , or order or direction, more in the form of Writ of Certiorari, calling for the records, pertaining the impugned Order passed by 1st respondent in P.G.No.116 of 2016 dated 21.12.2016



W.P(MD)No.15127 of 2018

and the Common order passed by the 1st respondent in appeal in Na.Ka.No.Aa/2076/2017 dated 30.08.2017 and quash the same.

For Petitioner : Mr.R.Vijayakumar
For R1 & R2 : Mr.A.Sivanu Pandian
Government Advocate

ORDER

This Writ Petition has been filed to issue a writ of Certiorari Mandamus calling for the records pertaining to the order passed by 1st respondent in P.G.No.116 of 2016 dated 21.12.2016 and the Common order passed by the 1st respondent in appeal in Na.Ka.No.Aa/2076/2017 dated 30.08.2017 and to quash the same in the interest of justice.

2. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

3. The admitted facts are not disputed by both the counsels.



W.P(MD)No.15127 of 2018

Accordingly, the issue involved in this case has to be considered on merits. The only issue involved in this Writ Petition is with regard to whether the controlling authority is having jurisdiction to even entertain any claim with regard to the period undergone by a person as an Apprentice under the Payment of Gratuity Act, 1972.

4. The learned counsel for the petitioner has placed reliance on the order dated 30.03.2023 passed by this Court in W.P(MD)No.17638 of 2020.

5. For better appreciation of the case on hand, paragraph No.3 of the said order is extracted herein under:

“No doubt, Section 2(e) of the Payment of Gratuity Act, 1972, excludes “apprentice” from the definition of “employee”. The learned standing counsel is right in his contention that the controlling authority may not have jurisdiction to even entertain any claim with regard to the period undergone by a person as apprentice. However, Section 4(5) of the Gratuity Act enables an



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W.P(MD)No.15127 of 2018

employee to receive better terms of gratuity under any award or agreement or contract with the employer. The employer had issued circular bearing R.C.No.AGR3/67287/2013, dated 29.04.2019 including apprentices also within the scope of the term “employee”. Therefore, the impugned orders passed by the authorities will have to be sustained. I however find merit in the contention of the learned standing counsel that since this development took place only subsequently, interest awarded by the authorities in respect of the apprenticeship period of the claimant's husband may be set aside. The Management has deposited the amount awarded by the controlling authority. It had also deposited the accrued interest. The Claimant can withdraw the same except the interest portion for the gratuity amount covering the apprenticeship period of her husband”.

6. While allowing the said Writ Petition, this Court considering the developments took place subsequently and set aside the interest awarded by the authorities in respect of apprenticeship period of the claimant.



W.P(MD)No.15127 of 2018

7. In the considered opinion of this Court, the order is squarely applicable to the facts of the present case.

8. Accordingly, this Writ Petition is partly allowed with the following directions:

i) The impugned order passed by the authorities will have to be sustained;

ii) Interest awarded by the authorities in respect of apprenticeship period is set aside.

9. No costs.

10. Consequently, connected miscellaneous petition is closed.

31.08.2023

Index : Yes / No
NCC : Yes / No
CM



W.P(MD)No.15127 of 2018

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To,

1. The Joint Commissioner of Labour,
Trichy.

2. The Assistant Commissioner of Labour,
Office of the Assistant Commissioner of Labour,
Trichy.



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W.P(MD)No.15127 of 2018

BATTU DEVANAND, J.

CM

W.P.(MD)No.15127 of 2018
and W.M.P. (MD) No.13694 of 2018

31.08.2023



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W.P(MD)No.15127 of 2018

31.08.2023