



W.A.(MD)No.486 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.A.(MD)No.486 of 2020

and

C.M.P.(MD)No.3504 of 2020

and

W.P.(MD)No.19452 of 2018

W.A.(MD)No.486 of 2020:

The Management,
Thanjavur District Central Cooperative Bank Limited,
Rep.by its Managing Director/Joint Registrar,
Thanjavur.

...Appellant

Vs.

1.The Assistant Commissioner of Labour,
O/o.Deputy Commissioner of Labour,
Tiruchirappalli-20.

2.S.Sethuraman

...Respondents

PRAYER: Appeal filed under Clause 15 of Letters patent, against the order passed by in W.P.(MD)No.8316 of 2023 dated 05.02.2018.

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For Appellant : Mr.D.Shanmugaraja Sethupathi
For R1 : Mr.M.Lingadurai
Special Government Pleader
For R2 : Mr.G.M.Xavier

W.P.(MD)No.19452 of 2018:

S.Sethuraman

...Petitioner

Vs.

- 1.The Registrar of Cooperative Societies,
Kilpauk, Madras 600010.
- 2.The Joint Registrar of Cooperative Societies,
Thanjavur.
- 3.The Deputy Registrar of Cooperative Societies,
Thanjavur.
- 4.The Joint Registrar/Managing Director,
The Central Cooperative Bank Ltd.,
West Main Street, Thanjavur.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the fourth respondent to pay the interest amount payable to the petitioner as per the order dated 28.03.2012 in P.G.No.110/2011 within the time that may be stipulated by this Court.

For Petitioner : Mr.G.M.Xavier



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For R1 to R3 : Mr.M.Lingadurai
Special Government Pleader
For R4 : Mr.D.Shanmugaraja Sethupathi

COMMON JUDGMENT

(Judgment of the Court was made by **S.M.SUBRAMANIAM, J.**)

Since the issue raised in both the matters are common, both the matters are disposed of by this common judgment.

2.The writ petition in W.P.(MD)No.19452 of 2018 was filed seeking interest for the belated payment of gratuity to the petitioner.

3.The order dated 05.02.2018 passed in W.P.(MD)No.8361 of 2016 is sought to be quashed in the intra Court appeal in W.A.(MD)No.486 of 2020.

4.The writ appellant/Management in W.P.(MD)No.8361 of 2016, questioned the validity of the order dated 23.09.2015 issued by the Assistant Commissioner of Labour.



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5.The learned Single Judge dismissed the writ petition filed by the Management on the ground that Section 14 of the Payment of Gratuity Act,1972 (hereinafter referred to as 'the Act' for the sake of brevity) or any rule made thereunder shall have overriding effect. Therefore, Section 14 of the Act will have a overriding effect over a settlement entered into under Section 18(1) of the Act. When Section 7(3)(A) of the Act mandates payment of interest for the management is bound to pay interest for the belated period also. In other words, the learned Single Judge formed an opinion that belated settlement of gratuity to an employee attracts interest under the Act, which cannot be denied and therefore, the workman is entitled for interest as per the order passed by the Controlling Authority under the Act.

6.The appellant Management is a Cooperative Society registered under the Tamil Nadu Cooperative Societies Act and more so, a District Central Cooperative Bank. In respect of the issue raised by the appellant, it is seen that the workman entered into 18(1) settlement admittedly, on 20.06.2012 for waiver the interest portion. The said settlement was entered into between the employer and the workman subsequent to the orders passed by the controlling authority



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under the Act on 28.03.2012. Therefore, the workman himself consented for waiver of interest under the Act and received the principal amount of Rs.6,59,276/- on 20.06.2012 on the date of 18(1) settlement. When the workman himself agreed for waiver of interest, there is no reason whatsoever for this Court to grant interest for the belated payment of gratuity.

7.The issue regarding 18(1) settlement is no more *res integra* and the Division Bench as well as the learned Single Judge of this Court considered the issues in details. In the case of ***Vaithyanathan and others vs. Deputy Commissioner of Labour and another [(2009) 3 LLJ 922]***, the learned Single Judge made the observations as follows:

“3. The Payment of Gratuity Act in Section 14, provides that the Act shall override other enactments to the extent of any inconsistency contained in any other such enactments. The settlement entered into by the workmen with the management was under Section 18(1) of the Industrial Disputes Act. There is no inconsistency between Section 18 of the Industrial Disputes Act and the provisions of the Payment of Gratuity Act. A settlement can be arrived at by a workman with the management under Section 18(1) of the Industrial Disputes Act in respect of matters which are subject to the provisions of the Industrial Disputes Act and on which the parties have reached an agreement. Section 18(1) of the



Industrial Disputes Act provides thus:

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"A settlement arrived at by agreement between the employer and the workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement."

.....

6. The Payment of Gratuity Act does not anywhere provide that it is impermissible for a workman to agree to scale down the amount of gratuity payable to him in the circumstances like the present, or in any other circumstance. The Act imposes an obligation on the employer to pay gratuity to those eligible under the Act the amounts, calculated in accordance with the provisions of the Act. If the workman, who is entitled to receive those amounts, willingly agrees to give up a portion of that amount in the background of the sickness of the undertaking and the need for revival which would, entail heavy financial investment by the person who had come forward to revive the undertaking, it cannot be said that the provisions of the Act is violated by reason of that agreement which they have entered into under Section 18(1) of the Industrial Disputes Act.

7. Any agreement solemnly entered into is meant to be binding on the parties, unless the agreement is vitiated by any factor recognised by law. No such vitiating factor has been demonstrated to have existed, and the authorities below have rightly acted upon that agreement. The findings of fact recorded by them show that the workmen had in fact received the amounts in full quit of all their claims towards gratuity."



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8.The Division Bench of this Court in the case of ***M.Devadasan vs. Management, Southern Railways Ltd., Kochadai, Madurai and others [2017 1 LLJ 95 (Mad)]*** considered the similar issue and the findings of the Division Bench read as follows:

“12.a. The said decision squarely applies to the case of the petitioner. The appellant having entered into a compromise and agreed for a settlement, cannot make a further claim resailing from the compromise.

13. Insofar the claim for gratuity is also, it is found that the appellate authority has rightly taken note of the receipt of Rs.10,00,000/- (Rupees Ten Lakhs Only) to the effect that the workman on his own volition, without reserving his right to make any further claim has accepted the amount and taken note of reasons for dismissal of the appeal filed by the workman. Therefore, in the considered opinion of this Court, the appellant, out of his own volition and without any compulsion or coercion has received a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) in full quit in respect of claims as early as 23.08.2006 and as such, it is not open to him to raise any further claim towards gratuity and provident fund. Therefore, the reasons assigned by the learned Judge in dismissing the Writ Petitions cannot be said to be perverse or error apparent on the face of the record.”



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9.In view of the fact that the workman himself entered into 18(1) settlement for waiver of interest granted by the controlling authority under the Act, the workman is not entitled to claim the interest and more so, the workman had already received the principal gratuity amount in terms of 18(1) settlement and hence, the writ appeal filed by the Management is to be considered.

10.Accordingly, the order impugned in the writ appeal dated 05.12.2018 made in W.P.(MD)No.8316 of 2016 is set aside and the writ appeal stands allowed.

11.In view of the facts as discussed above, W.P.(MD)No.19452 of 2018 stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

(S.M.S., J.) & (V.L.N., J.)
04.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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O/o.Deputy Commissioner of Labour,
Tiruchirappalli-20.
- 2.The Registrar of Cooperative Societies,
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- 3.The Joint Registrar of Cooperative Societies,
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