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W.P.No.25218 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE **N.SENTHILKUMAR**

W.P.No.25218 of 2012

and

M.P.No.1 of 2012

Big Kanchipuram Town Co-operative Bank Limited,
Rep. by its Special Officer,
Mr.S.Kannanmoorthy,
No.91-92, Annai Indira Gandhi Salai,
Kanchipuram.

...Petitioner

-Vs-

1.Assistant Commissioner of Labour/Controlling
Authority of Payment of Gratuity,
Office of Deputy Commissioner of Labour-2,
Chennai - 6.

2.Radha Bai
3.Anbalagan
4.Tamilselvi
5.Kaviselvi

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the impugned proceedings of the first respondent dated 31.03.2011 in Case No.PG/215.2009 and quash the same.



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For Petitioner : Mr.V.V.Ravichandran
For R1 : Mr.M.Bindran,
Additional Government Pleader
For R2 to R5 : Mr.Mani Bharathi

ORDER

The writ petition has been filed challenging the order of the first respondent in payment of gratuity, wherein the petitioner has stated in his affidavit at paragraph No.7 is extracted hereunder:

"the first respondent being the Controlling authority in payment of gratuity amount under the Payment of gratuity Act,unmindful of the contention raised passed impugned proceedings dated 31.03.2011, served on the petitioner on 16.12.2011, ordering payment of interest @ 10% from the date of retirement to till payment of gratuity amount viz., 31.07.2008, which comes to Rs.1,66,250/-. Though power is conferred on the first respondent for awarding interest under the provision of Gratuity Act, the first Respondent neglected to take note of the fact that there is neither willful nor wanton belated payment of the gratuity amount to Mrs.Baby wife of the deceased employee Mr.Narayanasamy. However on passing of the impugned order, the said Mrs.Baby wife of the deceased employee died, thereby the present writ petition is filed against the legal heir, viz., the Respondents 2 to 5. The Petitioner to vengeance their grievance having left with no other remedy except in approaching this Hon'ble Court was constrained to invoke jurisdiction under Article 226 of Indian Constitution in filing the present writ petition against the impugned proceedings of the first respondent."

2. The respondents 2 to 5 are the legal heirs of the deceased employee M.Narayanasamy. Now the learned counsel for the petitioner Mr.V.V.Ravichandran and the learned counsel for the respondents 2 to 5 agreed



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that they are willing to accept Rs.1,66,250/-. The respondents 2 to 5 had disputed in accepting Rs.1,66,250/- among themselves. Now it is agreed by the respondents 2 to 5 that they are willing to accept at the rate of 10% as contemplated under Section 8 of the Payment of Gratuity Act, 1972, recording the same, the writ petition is closed.

3. The learned counsel for the respondents also fairly accepted the proposals given by the petitioner that they will pay 6% interest from 31.03.2011 to till date.

4. The learned counsel for the petitioner requested that two months time may be granted for making the said payment from the date of receipt of a copy of this order. Recording the same, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

19.01.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

rjr



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N.SENTHILKUMAR, J,

rjr

To

The Assistant Commissioner of Labour/Controlling
Authority of Payment of Gratuity,
Office of Deputy Commissioner of Labour-2,
Chennai - 6.

W.P.No.25218 of 2012
and
M.P.No.1 of 2012

19.01.2024



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The matter is listed under the caption “for being mentioned” at the instance of the learned counsel for the petitioner.

2. Paragraph No.2 of the aforesaid order dated 19.01.2024 is extracted hereunder:

“2. The respondents 2 to 5 are the legal heirs of the deceased employee M.Narayanasamy. Now the learned counsel for the petitioner Mr.Mani Bharathi and the learned counsel for the respondents 2 to 5 agreed that they are willing to accept Rs.1,66,250/-. The respondents 2 to 5 had disputed in accepting Rs.1,66,250/- among themselves. Now it is agreed by the respondents 2 to 5 that they are willing to accept at the rate of 10% as contemplated under Section 8 of the Payment of Gratuity Act, 1972, recording the same, the writ petition is closed.”

3. The matter was mentioned before this Court by the petitioner stating that the quantum was not agreed as admitted before the Court. On 07.03.2024 and 14.03.2024, the matter was listed under caption "for being mentioned" and the matter is listed for hearing once again, the learned counsel for the petitioner submitted that the original calculation would be only



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Rs.1,10,833/-, however, it was inadvertently calculated as Rs.1,66,250/-.

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4. Learned counsel for the petitioner has not produced any materials to establish that the calculation was mistaken as Rs.1,66,250/- instead of Rs.1,10,833/- except the oral submission consistently made by the learned counsel for the petitioner. In the absence of any materials, it only amounts to interfering with the order passed on 19.01.2024.

5. This Court has no hesitation to affirm the order dated 19.01.2024 as there is no material to show that there is a differential amount in the calculation made in the aforesaid order.

6. Hence, the Writ Petition is clarified.

18.03.2024

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