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C.R.P.No.1824 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.1824 of 2024

and

CMP.No.9621 of 2024

The Secretary,
Asan Memorial Senior Secondary School,
Cochin House, Anderson Road,
Chennai - 600 006.

... Petitioner

Vs.

G.Rajendran

... Respondent

PRAYER: Civil Revision Petition has been filed under Article 227 of Constitution of India, 1950, praying to set aside the order dated 12.03.2024 passed by the Hon'ble Deputy Labour Commissioner in unnumbered I.A.in I.A.No.84 of 2023 in P.G.No.29 of 2024 on the file of the Hon'ble Controlling Authority under the payment of Gratuity Act, 1972 at Chennai and consequently, dismiss P.G.No.29/24.

For Petitioner : Mr.A.R.Karunakaran

For Respondent : Mr.R.Sivakumar

assisted by Mr.K.J.Kishore



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ORDER

This Civil Revision Petition has been filed to set aside the order dated 12.03.2024 passed by the Deputy Labour Commissioner in unnumbered I.A.in I.A.No.84 of 2023 in P.G.No.29 of 2024 on the file of the Controlling Authority under the payment of Gratuity Act, 1972 at Chennai and consequently, dismiss P.G.No.29/24.

2. This Court, on 11.07.2024, had passed the following order:

"When the matter was admitted on 29.04.2024, this Court passed an order which is extracted hereunder:-

The petitioner/respondent in P.G.No.29 of 2024, challenging the order passed in I.A.No.84 of 2023, had filed this revision.

2.The contention of the learned counsel for petitioner is that the respondent, who is previously employed in a school as Tamil Pandit, has filed a petition before the Controlling Authority under the Payment of Gratuity Act, 1972 seeking interest in payment of gratuity. This petition was filed with a delay of 4351 days, which is roughly round 12 years. Hence, the respondent filed I.A.No.84 of 2023 to condone the delay of 4351 days. Thereafter, the respondent filed a Memo dated 20.12.2023 stating that the delay in



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only 211 days. The said memo was objected by the petitioner as to how the delay calculated and for what reason the delay of 4351 days got reduced to 211 days. Despite objections, the respondent filed an unnumbered I.A. in I.A.No.84 of 2023 to amend the prayer in I.A.No.84 of 2023, i.e., to amend 4351 days to 211 days. The Authority, without any adjudication, by docket order dated 12.03.2024, allowed the unnumbered I.A. in I.A.No.84 of 2023 with an observation that delay will be decided in the main case. Thereafter, the petition filed by the respondent was numbered as P.G.No.29 of 2024.

3.The further contention of the learned counsel is that this petition lacks jurisdiction and it cannot be taken for adjudication. The Authority without considering and condoning the delay, numbered the main petition, which is impermissible. After numbering the main petition, the delay cannot be considered later.

4.Finding reason and force in the submission of the learned counsel for petitioner, this Court is inclined to admit this revision. Accordingly, this Civil Revision Petition is admitted.

5.Notice to the respondent returnable by 21.06.2024. Private notice is also permitted.

Post on 21.06.2024.

2. The contention of the petitioner is that it is only 211 days delay and it is a typographical mistake cannot be countenanced and referring to the affidavit filed in I.A.No.84 of 2023, to paragraph 3, he admitted that an application filed along with an interim application seeking to condone the delay of 211 days, whereas on the other hand in the copy served upon the respondent, the delay was mentioned as 4351 days.

3. The learned counsel appearing for the respondent on the other hand opposed the same referring to the



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adjudication, submitted that it is not the authority not considered the delay. Referring to the order passed on 12.03.2024, he submitted that counter filed, copy served to the respondent, I.A., allowed and it stated that the delay decided in the main case and the respondent can very well make his objections and submissions at the time of deciding the main case. Further he submitted that it is not in dispute that the respondent retired from service on 31.05.2011 on which date, the respondent a Tamil Pandit, who had put in 36 years of unblemished service and on 31.05.2011 he attained the age of superannuation and an amount of Rs.1,31,945/- paid only. The petitioner deliberately failed to pay the gratuity of Rs.3,07,073/- due to the respondent. But balance part payment Rs.1,75,128/- paid by the respondent to the petitioner on 30.09.2022, which is after 11 years. In view of the same, the interest works out to Rs.1,98,686/- has to be paid by the petitioner to the respondent. In view of the same, the petitioner cannot take technical plea and reject the respondent's rightful claim.

4.The learned counsel appearing for the petitioner submitted that the gratuity due to the respondent has been paid and the dispute is only with regard to the interest. Since earlier the Teachers were not paid gratuity, after the decision of the Hon'ble Apex Court gratuity paid to the Teachers and he fairly admitted that it is an order with retrospective force and hence, the difference paid to the respondent.

5.Further, the learned counsels appearing on either side agreed and sought for a week's time to sort out the issue find out whether an amicable settlement can be arrived at between them.

6.Post the matter on 23.07.2024. The Interim order of stay already granted by this Court is extended till then."



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3. In continuation and conjunction to the earlier order passed by this

Court on 11.07.2024, today, the learned counsel for the petitioner submitted that the issue has been resolved between the petitioner and the respondent.

The petitioner has handed over cheque to the respondent, drawn on South India Bank dated 14.07.2024 bearing cheque No.105276 for a sum of Rs.1,50,000/- and hence, the issue between the petitioner and the respondent is resolved.

4. In view of the same, nothing survives for adjudication in PG.No.29 of 2024. Accordingly, this Civil Revision Petition is allowed. PG.No.29 of 2024 stands closed. No costs. Consequently, connected miscellaneous petition is closed.

24.07.2024

Index : Yes/No

Internet : Yes/No

Speaking order/Non speaking order

Neutral Citation : Yes/No

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M.NIRMAL KUMAR, J.

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To

1. The Deputy Labour Commissioner, Chennai.
2. The Controlling Authority, Chennai.

C.R.P.No.1824 of 2024

and

CMP.No.9621 of 2024

24.07.2024