



W.P.No.12168 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2024

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

W.P.No.12168 of 2020

and

W.M.P.No.14905 of 2020

The Management of Salem Literary Society,
Represented by its Secretary, S.Selvakumar,
No.56, Cherry Road,
Salem -1

... Petitioner

Vs.

1. P.Raja (deceased)
2. Arokiya Mary
3. Chitra
4. Sunitha
5. Anitha
6. Meenu

[Respondents 2 to 6 are impleaded as
per order dated 05.09.2024 made in
W.M.P.No.25671 of 2024]

... Respondents

PRAYER: The Writ Petition filed under Article 226 of the Constitution of India, praying for Writ of Certiorarified Mandamus, to call for the records pertaining to the order dated 09.06.2020 passed by the Appellate Authority/Additional Commissioner of Labour, Coimbatore AGA No.13 of 2019 and quash the same.



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For Petitioner : Mr.K.V.Dhanapalan

For Respondents : M/s..S.V.Navin Prabhu
for M/s.V.Shanmuganathan

ORDER

This writ petition has been filed challenging the order of the Appellate Forum/Additional Labour Commissioner, Coimbatore, constituted under the Payment of Gratuity Act 1972 dated 09.06.2020 made in Case No.T.K.M.M.U AGA 13 of 2019. In the said order, the Appellate Authority, by setting aside the order of Controlling Authority made in P.G.No.22 of 2017 dated 09.01.2019, had directed the petitioner/ Management to settle a sum of Rs.1,09,038/- towards gratuity with statutory interest to the first respondent herein.

2. Learned counsel for the petitioner-Society submitted that the Appellate Authority has observed that the first respondent/workman(since deceased) had not produced the relevant documents to show the salary details and all other particulars of its establishment by overlooking the fact that those documents have already



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been produced before the authority. The petitioner/Society did not deny the fact that their establishment would not fall under the purview of the Payment of Gratuity Act. Even for the sake of arguments, if the petitioner/Society's establishment does not have more than six persons, that should have been stated before the competent Authority. But the said fact was not stated in the petitioner's counter filed before the authority below. In fact, the first respondent herein had produced Ex.P4, which shows that there were 14 employees and out of them, 12 workers have obtained salary and bonus, by affixing their signatures. Hence there is no force in the argument that the petitioner-Society will not come under the purview of Payment of Gratuity Act in view of number of workers.

3. The other point is that the appellate authority did not appreciate Exs.R1 to R3, which are acquaintance and attendance registers. Those documents are said to have been produced to ascertain the fact that the first respondent did not work for the petitioner-Society. The petitioner/Society comprises of more than 600 members and the first respondent



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herein had been working as Billiard Coach and worker in the recreation club of the petitioner/ Society.

4. The Appellate Authority has carefully scrutinized the analysis made by the appropriate authority/ Controlling Officers Tribunal rendering a finding that the first respondent was very much working with the petitioner- Society. In fact, the first respondent has asserted in his evidence that he was working in the petitioner/ Society for many decades and the petitioner-Society's witness has also stated that essential documents have not been furnished before the Authority below. So, it is right on the part of the Appellate Authority to uphold the findings of the Controlling Officers Tribunal with regard to the status of the first respondent/workman that he was the employee of the petitioner/Society and that he has been working there for several years and hence he is covered under the Payment of Gratuity Act.

5. Once the establishment is covered under the said Act, the subsequent shortfall in the number of employees, cannot be of any



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consequence and the establishment would still continue to be a covered institution under the Act. Hence, this Court does not find any perversity or short-sightedness in the impugned order passed by the Appellate Authority.

6. In the result, this Writ Petition is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

05.09.2024
(2/2)

Index: Yes/No
Speaking order: Yes/No
Neutral case citation: Yes/No

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R.N.MANJULA, J



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05.09.2024