



WEB COPY



W.P.No.23314 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.23314 of 2019
and
W.M.P.No.23056 of 2019

The Management,
Tamil Nadu Institute of Labour Studies
No.5 Kamaraj Salai,
Chennai – 600 005.

...Petitioner

Vs.

1. The Additional Labour Commissioner - I,
Appellate Authority
Payment of Gratuity Sct,
Labour Board Building 6th Floor,
Teynampet, Chennai – 600 006.
2. R.Selvamoorthy
3. The Accountant General,
Teynampet, Chennai
4. The Additional Chief Secretary to the Government,
Labour and Employment Department,
Chennai – 9.
5. The Commissioner of Labour,
Teynampet, Chennai – 18.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India



W.P.No.23314 of 2019

praying to issue a writ of certiorai calling for the records of the first respondent in connection with the order in P.G.A.No.126 of 2017 dated 21.03.2018 and quash the same.

For petitioner	:	Mr.V.Jayapraksh Narayanan
For R1	:	No appearance
For R2	:	Mr.S.Sriramulu
For R3 to R5	:	Mr.R.U.Dinesh Rajkumar

ORDER

This writ petition is filed for issuance of writ of certiorari to call for the records in the order passed in P.G.A.No.126 dated 21.03.2018 and quash the same.

2. The facts in brief as per the affidavit enclosed in this writ petition are as follows:

2.1. The second respondent was appointed on 04.04.1981 in the petitioner management as a Last Grade Servant, when the institution was under the control of the Labour department, Tamil Nadu. Subsequently, the petitioner institution was registered as a Society as per the policy of the



Government. At the time of converting into Society, notices were given to all the employees to decide as to whether to continue them in the institution of Labour Studies which is converted as Society or intends to leave the Society.

2.2. The second respondent has given willingness to continue in the institution which converted itself as a Society. He retired from service on 31.05.2014 after attaining the age of superannuation. The petitioner Society is covered under Employees Provident Fund Miscellaneous Provision Act 1952.

However, the second respondent and two others have raised issue before the controlling authority under the Payment of Gratuity Act, 1952 for gratuity amount from the period 04.05.1981 to 30.03.1988 for the period which he has rendered service on the Labour Department, Government of Tamil Nadu. The controlling authority has passed an order dated 25.05.2016 in P.G.No.33 of 2015 partially allowed the request of the second respondent and two others. The second respondent has preferred an appeal before the appellate authority *vide* No.126 of 2017 for rejection of gratuity for 7 years



W.P.No.23314 of 2019

during which he has worked in the Labour Department, Government of Tamil Nadu. The said authority passed orders dated 21.03.2018 and allowed the appeal holding that the second respondent is entitled for gratuity as his entire service from 04.05.1981 to 31.01.2014 inclusive of 7 years of service rendered in Government of Tamil Nadu.

It is submitted by the learned counsel for the petitioner as well as other two persons that they have approached the Government and got their gratuity amount through the Principal Accountant General of Tamil Nadu. However, insofar as the petitioner is concerned the controlling authority has directed the petitioner Society to pay gratuity and not by the Government. Therefore, sought for direction to set aside the orders in P.G.A.No.126 of 2017 dated 21.03.2018.

Heard both sides and perused the materials available on record.

During the course of submission, the learned Additional Government Pleader has submitted that in principle the Government has no objection to



settle the gratuity amount to the second respondent. However, the Government did not have details of the second respondent and that in case if the details are forwarded to the Government, the Government would certainly consider and process the request of the second respondent through the Accountant General the fifth respondent.

The learned counsel for the second respondent has submitted that the second respondent would file appropriate application before the petitioner Society for the balance of gratuity.

In view of the above, considering the submissions made above and on perusal of record and on hearing both sides this writ petition is disposed of directing the second respondent to file application before the petitioner Society seeking balance of gratuity amount for the period of 7 years commencing from 04.05.1981 to 31.01.2014 within two weeks from the date of receipt of a copy of this order. On filing of such application, the petitioner Society is directed to forward the application along with the entire service history of the second respondent to the fifth respondent the Commissioner of



Labour within two weeks thereafter. On receipt of the request of the second respondent along with the service particulars of the second respondent the fifth respondent Labour Commissioner is directed to process the request of the second respondent and submit the same to the Accountant General of Tamil Nadu the third respondent as quickly as possible and complete the process and pay the gratuity dues within a period of six weeks thereafter.

It is submitted by the learned counsel for the petitioner that prior to approaching this Court and filing of this writ petition, the petitioner has deposited a sum of Rs.1,42,658/- towards gratuity due to the second respondent in the office of the Commissioner of Labour Joint Commissioner – I and since the third and the fifth respondents are coming forward to settle the gratuity dues of the second respondent, the petitioner Society has permitted to withdraw the amount of Rs.1,42,658/-. On filing of such application for withdrawal of the amount the second respondent is directed to process the application for withdrawal of the said amount as quickly as possible.



W.P.No.23314 of 2019

Accordingly, with these observations this writ petition is disposed of with the following directions. Connected W.M.P.is closed. No costs.

25.06.2024

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Index : Yes/No
Internet : Yes/No
Citation : Yes/No

To

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