



W.P(MD)No.21672 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.21672 of 2024

and

WMP(MD) Nos.18320 & 18321 of 2024

Arulmighu Thirucoutrallanathaswamy Temple,
Courtrallam,
Through its Assistant Commissioner,
Executive officer.

... Petitioner

Vs

1.The Additional Commissioner of Labour,
Controlling Authority Under Payment of Gratuity Act 1972,
Madurai.

2.The Assistant Commissioner of Labour,
Controlling Authority Under Payment of Gratuity Act 1972,
Tirunelveli.

3.B.Krishnammal

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, call for the records of the impugned proceedings of the



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first respondent in Na.Ka.No. E/1272/2024 dated 31.07.2024 and quash the same and directing the 1st respondent to take on the file the Appeal filed by the petitioner against the orders passed in P.G 21 of 2020, dated 12.04.2024, passed by the second respondent and dispose of the same on merits in accordance with law.

For Petitioner	: Mr. S.Manohar,
For R1 & R2	: Mr.G.V.Vairam Santhosh Additional Government Pleader

ORDER

The petitioner temple, namely, Arulmighu Thirucoutrallanathaswamy Temple, Courtrallam has filed this writ petition as against the order passed by the Additional Commissioner of Labour, Controlling Authority Under Payment of Gratuity Act 1972, Madurai/the first respondent, in Na.Ka.No. E/1272/2024 dated 31.07.2024. This order has been passed by the first respondent in the appeal preferred by the petitioner temple, challenging the order passed by the Assistant Commissioner of Labour, Tirunelveli/the second respondent in P.G.No.21 of 2020, dated 12.04.2024.



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2.The case of the petitioner temple is that the petitioner temple is governed by the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 and as such, under the administration of the Tamil Nadu HR & CE Department. One Baliah, the husband of the third respondent has filed P.G.No.21 of 2020, before the second respondent herein, claiming gratuity under the Payment of Gratuity Act, 1972 and the same was allowed by the second respondent by his order, dated 12.04.2024, directing the petitioner temple to deposit a sum of Rs.96,537/- before the Deputy Commissioner of Labour, Tirunelveli, towards the balance of interest amount due to be paid to said Baliah. Since the said Baliah died, his wife has prosecuted the case further. The third respondent has raised this issue before the second respondent that her husband was working in the petitioner temple from 01.07.1981 till February 2010 for a period of 29 years and he has also retired from service. However, the petitioner temple has not paid the gratuity amount as well as the interest due, to her husband, as per Section 7(3-A) of the



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Payment of Gratuity Act, 1972.(herein after referred as Act). While passing the order, the second respondent has found that though the petitioner temple is liable to pay the interest at the rate of 10%, as provided under Section 7(3-A) of the Act, they have paid the amount only at the rate of 6% and therefore, the differential 4% of interest has been directed to be paid by the petitioner temple, in the impugned order. Challenging the same, the petitioner temple has preferred an appeal before the first respondent/ Appellate Authority and the same was returned in original, by referring the provisions under Section 7(7) of the Act. Aggrieved over the same, the petitioner temple is before this Court.

3.The learned counsel appearing for the petitioner temple submits that instead of deciding the appeal on merits, the first Appellate Authority is not justified in returning the appeal, by referring Section 7(7) of the Act, as the provisions under Section 7(7) of the Act is not applicable in the present case. The learned counsel further submits that the first Appellate Authority has failed



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to note that the petitioner temple is a religious Institution, governed by the Tamil Nadu Act 22 of 1959.

4.This Court considered the submissions of the learned counsel for the petitioner and also perused the materials placed on record.

5.Admittedly, the husband of the third respondent, namely Baliah, who was working in the petitioner temple for a period of 29 years has filed an application in P.G.No.21 of 2020, seeking a direction to the petitioner temple to pay the gratuity amount to him. Subsequently, he died. Therefore, the third respondent/the wife of the said Baliah has prosecuted the case further that the petitioner temple has not paid the gratuity amount, within the prescribed period as contemplated under Section 7(3) of the Payment of Gratuity Act, 1972. If the amount of gratuity payable under Section 7(3) of the Act is not paid by the employer within a period specified under Section 7(3) of the Act, the employer



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is liable to pay the gratuity amount together with simple interest at such rate specified by the Central Government in its Notification No.SO-874 (E), dated 01.10.1987, wherein, the rate of interest has been mentioned as 10%. By referring this notification and the provision under Section 7(3-A) of the Act, the second respondent has passed an order in P.G.No. 21 of 2020, dated 12.04.2024, directing the petitioner temple to deposit a sum of Rs.96,537/- before the Deputy Commissioner of Labour, Tirunelveli. Challenging the same, the petitioner has preferred an appeal before the first respondent, under Section 7(7) of the Act and the same was returned by the first respondent that this petitioner has not deposited the amount as directed by the second respondent. It is relevant to refer to the provisions under Section 7(7) of the Act for better understanding.

7. Determination of the amount of gratuity

(7).Any person aggrieved by an order under sub-section (4) may, within sixty days from the date of the receipt of the order, prefer an appeal to the appropriate Government or such other authority as may be specified by the appropriate Government



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in this behalf:

Provided that the appropriate Government or the appellate authority, as the case may be, may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, extend the said period by a further period of sixty days.

[Provided further that no appeal by an employer shall be admitted unless at the time of preferring the appeal, the appellant either produces a certificate of the controlling authority to the effect that the appellant has deposited with him an amount equal to the amount of gratuity required to be deposited under sub-section (4), or deposits with the appellate authority such amount.][Inserted by Act 25 of 1984, Section 4 (w.e.f. 1.7.1984).]

6.The above provision mandates that at the time of preferring the appeal, the appellant has to file it with the certificate to the effect that the appellant has deposited the amount, which is equivalent to the amount required to be deposited under Section 7(4) of the Payment of Gratuity Act, 1972.



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7.The learned counsel for the petitioner by referring this provision submits that the appellant is expected to deposit the amount towards the interest that would be equivalent to the amount of gratuity and in this case, the gratuity amount as on date is Rs.1,85,000/- However, the writ petitioner has already paid a sum of Rs.1,85,427/- together with interest at the rate of 6%, which comes to the tune of Rs.1,44,698/- and therefore, the petitioner is expected to pay a sum of Rs.35,000/- to the value of the gratuity amount and not more than that as claimed by the first respondent. This Court is not inclined to accept the same.

8.Proviso to Section 3(A) of the Act specifies that in the event if there is any delay on the part of the employer in paying the gratuity amount from the date on which, it was due till the payment was made, it has to be paid at the rate of interest notified by the Central Government in its notification in SO.874 (E) dated 01.10.1987. The rate of interest specified in the above notification is



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10%. Therefore, the petitioner is liable to pay the interest as per the provision under Section 7(3-A) and the provision under Section 7(7) of the Payment of Gratuity Act, 1972.

9. In view of the above, this writ petition is dismissed, with liberty to the petitioner to deposit the amount as directed by the second respondent within a period of three weeks from the date of receipt of a copy of this order. In the event, if the petitioner has deposited the amount within a period as directed by this Court, the first respondent shall entertain the appeal and decide the same on merits and in accordance with law and also considering the grounds raised by this petitioner in this writ petition and uninfluenced by the observations made by this Court in this order. No Costs. Consequently, connected Miscellaneous Petitions are closed.

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NCC: Yes/No

Index: Yes

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Note: Issue order copy on 03.10.2024



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