



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 13.02.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.12685 & 12686 of 2012

K.Shanmugam

... Petitioner in W.P.No.12685 of 2012

M.Muthu

.... Petitioner in W.P.no.12686 of 2012

-vs-

1. The Appellate Authority,
Under the Payment of Gratuity Act/
Joint Commissioner of Labour,
Coimbatore.

2. The Controlling Authority,
Under the Payment of Gratuity Act/
Assistant Commissioner of Labour,
Salem.

... Respondents 1 & 2 in both the writ petitions

3. The Management
Kolathur Primary Agricultural Co-operative Bank Ltd.,
Kolathur, Mettur, Salem District.

... 3rd Respondent in W.P.No.12685 of 2012

3. The Management,
Navapatti Primary Agricultural Co-operative Bank Ltd.,
Mettur Dam, Salem District.

4. The Divisional Manager,
Life Insurance Corporation,
Gandhi Road, Salem-7.

... 3rd and 4th Respondent in WP. No.12686 of 2012

Common Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 01.03.2012 passed by the second respondent in P.G.No.16 & 32 of 2009 pursuant to the order dated 25.08.2011 passed by the first respondent in PGA. No.11/2011 & 10/2011 and quash that portion of the order by which the second respondent has disallowed a part of the



gratuity amount payable to the petitioner based on the wages payable to him at the time of retirement.

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For Petitioners : Mr.K.V.Shanmuganathan
for both the W.P.'s
For Respondents : Mr.M.Murali, GA for RR1 & 2
in both the writ petitions
Mr.S.Duraisolaimalai R3
in W.P.No.12686 of 2012
Mr.D.Shivakumaran R3
in W.P.No.12685 of 2012
Mr.C.K.Chandrasekar R4
in W.P.No.12685 of 2012

COMMON ORDER

The writ petitions have been filed seeking to quash the orders dated 01.03.2012 passed by the second respondent in P.G.Nos.16 & 32 of 2009 pursuant to the order dated 25.08.2011 passed by the first respondent in PGA. No.11/2011 & 10/2011 and quash that portion of the order by which the second respondent has disallowed a part of the gratuity amount payable to the petitioner based on the wages payable to him at the time of retirement.

2. It is the case of the petitioners that the petitioners are employees with the third respondent society for more than 36 years. After retirement, the petitioners made an application before the third respondent seeking to pay difference in the gratuity. However, the third respondent refused to pay the same. Therefore, the petitioners have made an application before the second respondent under Section 7 of the Payment of Gratuity Act, 1972 seeking for a

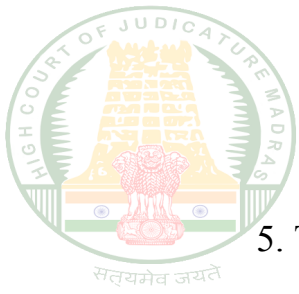


direction against the third respondent and the same was dismissed the petitions.

Aggrieved over the same, the petitioners preferred an appeal before the first respondent. The first respondent had again remanded the matters back to the second respondent for fresh consideration on 25.08.2011. Challenging the same, the present writ petitions have been filed.

3. The learned counsel for the petitioners submitted that the first respondent ought to have directed the third respondent to pay gratuity to the petitioners based on the wages payable as per the settlement entered into by the third respondent with its employees on 18.12.1998. The gratuity amount has to be calculated based on the wages payable to an employees. However, the first respondent was not in right in directing the second respondent to calculate the gratuity amount based on the wages last drawn by the petitioners. The learned counsel seeks to quash the impugned order and allow the writ petitions.

4. The learned counsel for the 4th respondent submitted that as against the impugned order, there is an effective remedy available before the first respondent. Without filing an appeal before the first respondent, the petitioners have filed the writ petitions, which is not sustainable one.



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5. The learned counsel for the third respondent submitted that the gratuity amount has already been paid to the petitioners and hence, the writ petitions are nothing survives for adjudication and are liable to be dismissed.

6. Heard the learned counsel for the petitioners and the learned counsel for the respondents and perused the materials available on records.

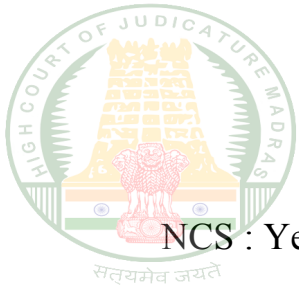
7. The facts of the case are not in dispute. Admittedly the petitioners have rendered more than .36 years of service with the third respondent. After retirement, the petitioners have already received the gratuity amount. This Court is of the view that the gratuity payable to an employee ought to have calculated strictly based on the wages received by them before the first and second respondent and not before this Court. Hence, the writ petitions filed by the petitioners are liable to be dismissed.

8. With the above discussion, the writ petition is dismissed. However, liberty is granted to the petitioners to workout their remedy before the appropriate forum. No costs.

13.02.2025

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Index: Yes/No



NCS : Yes/No

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M.DHANDAPANI, J.

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To

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